NEWARK PUBLIC LIBRARY
APR 10 1980
U. S. GOVT. PUBS.
DEPOSITORY 376

NCUA Digest

National Credit Union Administration

Information for Today's Credit Union Community

volume 1 number 2 august 1979

NCU 1.13:

NCUA DIGEST EXPANDS

Responding to augmented requirements by the credit union movement for regulatory information, the *NCUA Digest* is expanding its editorial concept beyond publishing condensed technical materials and occasionally longer articles.

New to the publication with this issue is a reference section containing the texts of recent documents outlining major policy directions of the agency. These will include the following categories: (1) NCUA official statements to Congress; (2) interpretive rulings and policy statements; and (3) regulations, notices and reports.

The latter two categories of materials will be printed in full as they appear in the *Federal Register*. In the case of regulations, this will include the accompanying preamble which is designed to state clearly the purpose of the proposed or final rule.

In the past, all affected CUs and interested parties have received copies of the actual amendments to the *NCUA Rules and Regulations*.

However, publication of the explanatory preambles and the other materials in this section of the *NCUA Digest* is aimed at providing the reader with a broader view of the actions taken or contemplated by the agency.

NOTE: Legislation implemented since the content of this publication was established designated Mr. Connell as chairman. Subsequent issues will carry the new title, along with a listing of the new NCUA Board members.

VOLUME 1 ☐ NUMBER 2 ☐ AUGUST 1979

NCUA DIGEST

National Credit Union Administration

Washington, D.C.

ADMINISTRATOR: Lawrence Connell

The *NCUA Digest* is published by the National Credit Union Administration under the supervision of the NCUA Public Information Office. Distribution includes all federally insured credit unions, state credit union supervisors, credit union organizations, agency employees and other interested parties.

TABLE OF CONTENTS

Points of Interest

1 Automated Clearing House Activity

1 Distribution of FCU Membership Lists to Bonded Mailing Services

1 Securities Safekeeping Concern of NCUA

1 Regulation B—Spouses as Co-Makers

2 Marketing Direct Deposit Program

2 Truth in Lending Disclosures for Extension Agreements

3 Non-Members Permitted Use of Credit Cards

3 Regulation Z Enforcement

3 States Re-Aligned Within NCUA Regions

55 NCUA Publications List

56 Map of New Regional Alignment

56 Map of CU Growth

****

For the Record

SECTION A

STATEMENTS BY ADMINISTRATOR LAWRENCE CONNELL TO CONGRESS

4 **Savings Accounts for Elderly Persons**

Testimony on savings accounts for elderly persons before the House Subcommittee on Housing and Consumer Affairs of the Select Committee on Aging, June 28, 1979.

13 **Depository Institution Deregulation Act**

Administrator appeared before the Senate Subcommittee on Financial Institutions of the Committee on Banking, Housing and Urban Affairs to discuss the Depository Institutions Deregulation Act of 1979 (S.1347) and its importance to the CU movement, June 27, 1979.

15 **Condition of the Credit Unions**

Testimony before the Senate Committee on Banking, Housing and Urban Affairs to discuss the condition on the CU system, May 23, 1979.

19 **Interest on Demand Deposits and their Status**

Connell speaks before the House Subcommittee on Financial Institutions Supervision, Regulation and Insurance of the Committee on Banking, Finance and Urban Affairs on H.R. 3864, a bill allowing the payment of interest on demand deposits and also allowing federally insured savings and loan associations and CUs to receive them, May 16, 1979.

21 **Help for the Small Saver**

Discussion of a regulation on share accounts and share certificate accounts aimed at assisting the small saver in testimony before the House Subcommittee on Financial Institutions Supervision, Regulation and Insurance of the Committee on Banking, Finance and Urban Affairs, May 7, 1979.

****

SECTION B

INTERPRETIVE RULINGS AND POLICY STATEMENTS

26 **Credit Union Service Corporation**

No. 79-1: CU service corporation, statement of policy, April 9, 1979.

****

SECTION C

REGULATIONS, NOTICES AND REPORTS

27 Semi-annual agenda of regulations (in response to Executive Order No. 12044: Improving Government Regulations), June 27, 1979.

30 Liquidity reserves of insured CUs, proposed rule, June 4, 1979.

33 Amortization and payments of loans to members (regarding lines of credit), final rule, May 31, 1979.

34 Borrowed funds from natural persons (regarding certificates of indebtedness), final rule, May 31, 1979.

36 Share accounts and share certificate accounts (regarding small savers), final rule, May 30, 1979.

40 Fees paid by FCUs, final rule, May 4, 1979.

42 Purchase, sale and pledge of eligible obligations, final rule, May 3, 1979.

46 CLF, membership and lending, proposed rule, April 30, 1979.

52 Debt collection practices, advance notice of proposed rulemaking, April 6, 1979.

READEX FICHE

TABLE OF CONTENTS

2 Automated Clearing House Activity

2 [illegible]

3 [illegible]

[illegible]

5 [illegible]

7 [illegible]

95 NCUA Publications List

96 [illegible]

96 [illegible]

For the Record

SECTION A

STATEMENTS BY ADMINISTRATOR LAWRENCE CONNELL TO CONGRESS

4 Savings Accounts for Elderly Persons

Testimony on savings accounts for elderly persons before the House Subcommittee on Housing and Consumer Affairs of the Select Committee on Aging, June 25, 1979.

23 Depository Institutions Deregulation Act

Administrator testified before the Senate Subcom-

SECTION B

INTERPRETIVE RULINGS AND POLICY STATEMENTS

26 Credit Union Service Corporations

No. [illegible], CU service corporation, [illegible] April [illegible], 1979.

Points of Interest

AUTOMATED CLEARING HOUSE ACTIVITY

For the past two years, FCUs have been authorized to participate in automated clearing house (ACH) programs and to become members of ACHs.

The NCUA has previously required that any FCU desiring either to originate or receive entries through an ACH must obtain prior approval from the agency. This requirement did not apply to FCUs desiring to receive federal recurring payments in this manner.

Recently, the administrator approved a change to the *NCUA Accounting Manual* which discusses ACH activities and which authorizes, without further approval action, FCUs to become members of ACHs and to participate in originating and receiving debit or credit transactions through the use of an ACH.

The entries could be handled by direct FCU membership in an ACH or through a pass-through arrangement with another financial institution which is a member of an ACH.

The significance of this change in policy has limited impact on the daily operations of most FCUs. However, the agency is concerned that FCU officials be aware of the potential benefits of ACH services as they relate to improved efficiency in handling preauthorized debit and credit transactions involving share draft or other types of share accounts.

Therefore, this action is intended to encourage FCU officials who find ACH programs to be beneficial to their operation to move ahead with plans to implement programs involving the use of an ACH.

DISTRIBUTION OF FCU MEMBERSHIP LISTS TO BONDED MAILING SERVICES

Occasionally an FCU may be approached by an insurance company to provide a copy of the members' names and addresses to a bonded mailing service. The purpose of this request is normally to forward information to the FCU's members concerning the company's insurance programs.

Section 721.1(c) of the *NCUA Rules and Regulations* prohibits an FCU from making any member's name or address directly or indirectly available to any insurer, its agency or representative. Furthermore, the regulation prohibits an FCU from using the insurer's or the insurer's agent's stationery or envelopes in making information available to members.

To assist FCUs in complying with these requirements, the following guidelines are provided:

1. Use of an insurer's stationery or envelopes is prohibited.
2. Members must be told that participation is voluntary.
3. Other business correspondence, e.g., bills or cancellation notices, may not be sent by the mailing service.
4. The FCU should pay the mailing service directly, and then seek reimbursement from the insurer.
5. The mailing service must agree with the FCU that only information approved and delivered by the FCU will be mailed to the membership.

Any FCU approached by an insurance company for a copy of its membership mailing list should carefully consider the requirements of Section 721.1 and the above guidelines.

SECURITIES SAFEKEEPING CONCERN OF NCUA

Recent developments in the U.S. government and federal agency securities market have again raised NCUA's concern over investment activities between FCUs and broker/dealers.

The agency believes that all FCUs must take action to insure that their interests in securities held in safekeeping are protected.

In an April 17 letter (NCUA Letter No. 29), the administrator informed all FCU boards of directors of certain abuses by brokers involving securities of FCUs which were held by the brokers as collateral or in safekeeping.

To prevent further abuses, each FCU should establish policies that will protect securities held in safekeeping by requiring all securities not physically in the possession of the FCU to be held in a third party safekeeping account.

This account should be evidenced by a safekeeping receipt or a periodic statement of account. The policy should also include confirmation by the supervisory committee of securities held in safekeeping.

Two safekeeping confirmation forms were included with the letter: one to be sent to the broker and another to the safekeeping institution.

Any FCU that did not receive the letter should contact NCUA immediately for a copy.

REGULATION B – SPOUSES AS CO-MAKERS

An FCU policy prohibiting spouses from being co-makers is not permitted by Regulation B. Such a policy is contrary to the general rule in Regulation B that prohibits discrimination on the basis of marital status (12 CFR 202.4). Certain publications have recently contained incorrect guidance on this point.

Any policy or practice which either requires applicants' spouses to be their co-makers (or accommodation parties) or which prohibits applicants' spouses from being their co-makers (or accommodation parties) should be eliminated immediately.

The reason behind this is that a spouse cannot be treated any differently than any other potential co-maker merely because he or she is the spouse of the applicant. An FCU, of course, may reject any proposed co-maker who does not meet its established standards of creditworthiness.

MARKETING DIRECT DEPOSIT PROGRAM

Since the inception of the Direct Deposit (DD) Program in 1974, participation in the program has grown to over 9.6 million recipients. The growth in the program in 1978 was dramatic, with over 26 million recipients opting for DD. The Treasury Department is projecting a growth of over 3 million for 1979.

The chart below indicates the actual growth of the program since January, 1977, and the projected participation goal for January, 1980.

DIRECT DEPOSIT GROWTH

	Monthly Potential Volume (Number of Participants)	Actual Monthly Direct Deposits		Monthly Available Market (in billions)
		Number of Participants	Dollar Value (in billions)	
Jan. 1977	42,063,219	5,078,760	$1.2	$8.7
Jan. 1978	43,692,694	6,865,383	1.7	9.1
Jan. 1979	44,602,672	9,469,387	2.6	9.7
Jan. 1980 est.	45,800,000	12,500,000	3.6	9.7

There is a monthly market potential of $9.7 billion still available for DD, representing an annual market of $116.4 billion. The chart below indicates the volume growth by type of financial organization for the 2.6 million recipients who enrolled in the program during 1978.

	Jan. 78	Jan. 79	Growth	% Growth
Commercial Banks	6,010,424	8,257,863	2,247,439	37.4%
Savings & Loans	486,812	677,638	190,826	39.2%
Mutual Savings Banks	321,206	445,198	123,992	38.6%
Credit Unions	44,391	84,958	40,567	91.4%
Industrial Banks	2,550	3,730	1,180	46.3%
TOTAL	6,865,383	9,469,387	2,604,004	37.9%

Treasury Marketing

In March 1977, Treasury began a promotional effort designed to increase participation in the DD program. In May 1978, many successful financial organizations coordinated their promotional efforts with Treasury's and found that the number of DDs could be increased dramatically with a small expenditure of marketing dollars.

Most Effective Marketing Approaches

When asked which marketing techniques were most effective, financial organizations indicated that personal contact, brochures, statement stuffers, local radio and newspaper advertising provide the best results.

Financial organization personnel can cross-sell DD by recognizing eligible individuals, providing a brochure with a receipt, and flagging deposits so the accounting department can periodically insert a flier with the statement.

Also effective were personalized letters with a partially completed form sent to recipients to encourage them to enroll in the program.

Work with senior citizen groups was effective in increasing DDs. These included visiting senior citizens clubs, nursing homes and senior citizens complexes; holding senior citizen's day at financial organizations; offering coffee, doughnuts or continental breakfasts; sponsoring senior citizens clubs; and having senior citizens in the lobby on the first and third of the month to hand out brochures and answer questions about DD.

TRUTH IN LENDING DISCLOSURES FOR EXTENSION AGREEMENTS

NCUA has recently clarified with Federal Reserve Board staff a misunderstanding concerning truth in lending (TIL) disclosures required when extension agreements are granted by FCUs. The agency's enforcement policy is now as follows:

A mere deferral of one or more full payments of principal and interest (with no other changes in terms or charges other than the additional interest) will not necessitate the issuance of a new TIL disclosure statement.

Any other formal extension agreement, however, would trigger the requirement to issue a new TIL disclosure. This section of the *Manual of Laws* is being revised accordingly.

NON-MEMBERS PERMITTED USE OF CREDIT CARDS

Federal credit union joint account owners, co-signers and non-members can now be issued credit cards, if a sponsoring member so desires to extend this privilege and it is in accordance with the FCU board policy.

Credit cards were formerly restricted to members only, as stated in an agency letter dated Oct. 4, 1977, to all FCU boards of directors (NCUA Letter No. 15).

But recently NCUA has modified its position, allowing an FCU to issue a credit card to its own fully qualified members, who in turn may request that the FCU issue additional credit cards to any other persons designated by the members.

This is conditional upon a request being submitted to the FCU in writing and the member's line of credit account number appearing on the face of the credit card.

The issuance of any additional cards to a member or to other persons should comply with specific written policies established by the FCU's board of directors.

Also, a member is liable to the issuing FCU for any non-member (authorized user) purchases or advances made pursuant to use of the credit card.

REGULATION Z ENFORCEMENT

On April 27, the agency distributed a letter (NCUA Letter No. 30) on truth in lending (TIL) enforcement to the boards of directors of all FCUs. Because of the subject matter's importance to FCUs, separate copies were provided for each FCU's supervisory committee as well.

The letter provides detailed information on NCUA's enforcement approach for TIL violations and explains exactly what type of violations the agency will be looking for in implementing the interagency TIL enforcement guidelines.

Any FCU that did not receive the letter should contact NCUA immediately for a copy.

STATES RE-ALIGNED WITHIN NCUA REGIONS

In an attempt to improve the NCUA regional workload distribution, Administrator Connell has announced a regional re-alignment that will go into effect Oct. 1, 1979.

Demographic shifting of CU populations, budget restrictions and a need for comprehensive examinations within more equitable timetables motivated the changes in state distribution within the six NCUA regions.

Regional offices will remain in their present locations of Boston, Harrisburg, Atlanta, Toledo, Austin and San Francisco. Examiner vacancies will continue to be filled under the current policy.

The Oct. 1 re-alignment will affect ten states including Idaho, Montana, Nevada, Missouri, Arkansas, Louisiana, New Jersey, Virginia, West Virginia and Arizona. The new alignment will be as follows:

Region I (Boston): Connecticut, Maine, Massachusetts, New Hampshire, New Jersey, New York, Puerto Rico, Rhode Island, Vermont, Virgin Islands.

Region II (Harrisburg): Delaware, District of Columbia, Maryland, Pennsylvania, Virginia, West Virginia.

Region III (Atlanta): Alabama, Arkansas, Canal Zone, Florida, Georgia, Kentucky, Louisiana, Mississippi, North Carolina, South Carolina, Tennessee.

Region IV (Toledo): Illinois, Indiana, Iowa, Michigan, Minnesota, Missouri, North Dakota, Ohio, South Dakota, Wisconsin.

Region V (Austin): Arizona, Colorado, Idaho, Kansas, Montana, Nebraska, Nevada, New Mexico, Oklahoma, Texas, Utah, Wyoming.

Region VI (San Francisco): Alaska, California, Guam, Hawaii, Oregon, Washington.

(See map on page 56.)

For the Record

Statements By Administrator Connell To Congress

Savings Accounts for Elderly Persons

June 28, 1979

On June 28, 1979, Administrator Lawrence Connell testified on savings accounts for elderly persons before the House Subcommittee on Housing and Consumer Affairs of the Select Committee on Aging.

****

Mr. Chairman
Members of the Subcommittee

I am pleased to be here today to present the comments of the NCUA regarding the matter of savings accounts for elderly persons.

Credit unions are not for profit cooperatives which are organized to meet the needs of their members. Truly, they were the pioneers of the consumer movement as we know it in this country. Decisions regarding the dividend rate paid, the amount to charge on loans, the types of services provided and other matters are decided by the members themselves through an elected board of directors.

Historically, CUs have tailored their services to meet the specific needs of their members. Membership is limited to persons having a common bond of employment, place of residence, or membership in the same fraternal or social organization. The policies of the NCUA have been to offer CUs as much latitude as possible within which to service their members.

The only statutory rate control on FCUs is a 12 percent ceiling on loans to members. The maximum rate on share accounts, or savings has been set by regulation. This rate remained unchanged for a period of 29 years until it was raised from 6 percent to 7 percent in 1973 where it remains today.

While there are several factors in determining a change in rate ceilings or for that matter, if rate ceilings are necessary, one of the most important is Congressional intent. Congress first imposed rate controls in 1933 to encourage banks to make sound loans. Without ceilings, it was feared that banks would begin excessive rate competition to attract funds. This competition could lead to the making of risky loans and the possibility of a repeat of the bank failures of the early '30s.

Thus, we are living with a decision which began 46 years ago and which received an additional Congressional twist in 1966 with the enactment of P.L. 89-597. This bill called upon the Secretary of the Treasury, the Federal Reserve Board, the Federal Deposit Insurance Corporation, the Federal Home Loan Bank Board to "exercise their powers so as to bring about a reduction in interest rates to the maximum extent feasible in the light of conditions prevailing in the money market and the economy in general." (Senate Report No. 1601 Sept. 14, 1966). This law was extended by the 95th Congress in P.L. 95-630 until December 15, 1980. Thus a review of Congressional intent reveals a most recent decision to reaffirm this policy of rate controls.

A further review of the Senate Report points out one of the main reasons for the rate control provisions. As the sponsor of the floor amendment providing the controls explained, "all agencies of the Government, whether concerned with monetary or fiscal policy, should be directed to mobilize their resources in a combined effort to alleviate the high interest rate conditions that now face us." Further in the report is the following: "Recently, high interest rates appear to have drawn funds from homebuilding while proving inadequate in restraining business investment in plant and equipment, one of the strongest forces feeding the exceptional demand for bank credit."

The bill gave for the first time the Federal Home Loan Bank Board clear authority to place limits on savings accounts at savings and loan associations. The rate advantage for S&L's was not legislated until later but it was clear from the hearing record that one should be used if necessary and in fact a differential of ¾ percent was established by regulation.

Mr. Chairman, I have chosen to review the history of rate controls to make the point that it is still the "official intent" of Congress to minimize competition within the financial community and to continue a policy of favoring the homebuyer over the saver. I know that you are aware of efforts by the President and this Congress to remove these artificial restraints to competition and I am fully supportive of these efforts.

The point I wish to make here is that the *most* advantageous change that could be made for the elderly saver is to remove the statutory requirement for rate controls.

RATE REGULATIONS

With that said, let me turn to the matter of what regulatory actions the NCUA has taken within this framework. Although not included in P.L. 89-597 (NCUA was not established as an independent agency until 1970), we have coordinated with the other regulatory agencies in order to stay within the intent of the Congress and at the same time not restrict CUs in their operations. Therefore, CUs have always been able to choose to pay a higher rate than other institutions thereby rewarding the efficiency of cooperative thrift and its volunteerism which not only afforded such savings rates but also offered the most reasonable loan rates.

As I mentioned earlier, the ceiling for CUs remained unchanged until it was raised to 7 percent in 1973. However, the disintermediation of 1973-74 led CUs to seek legislation authorizing variable share accounts and share certificates. In passing P.L. 95-22, Congress endorsed the need to offer varying rates of return.

It has also been clear that a rate structure limiting CU dividends cannot be effective if it is significantly below general market rates. Credit unions enjoyed an exceptional growth rate of approximately 20 percent per year from 1970 to 1978, largely because they could pay higher dividends on regular savings accounts than savings and loan associations and banks. In 1978 when they found themselves competing head-on for money market certificate savings, the growth rate came to an abrupt halt. The projected growth rate of 1979 is 4.6 percent. During late 1978 when CUs by regulation could not issue money market certificates they began issuing the non-regulated certificates of indebtedness which reached an all time high of $1.546 billion in December of 1978. (See Table 1.) Once NCUA permitted FCUs to offer money market share certificates, there was an immediate shift from the non-insured certificate of indebtedness into the insured money market share certificate.

During the past year, NCUA has been implementing regulations to provide FCUs with a range of opportunities to offer certificates. However, as Table 2 shows, though authorized to do so, *only 15 percent* of CUs pay regular share account dividends as high as the 7 percent ceilings. Similarly, a recent survey indicates that *only 25 percent* of the large FCUs surveyed have share certificate programs paying rates as high as 7¾ percent. Lastly, *about 38 percent* of large FCUs offer money market certificates, though they have complete freedom to do so.

This phenomenon can be accounted for in part by the fact that: (1) the lower Regulation Q Ceilings on other financial institutions have enabled CUs to attract funds at prevailing rates: (2) credit unions, due to their cooperative structure, traditionally balance higher rates on savings against lower rates on loans, including interest refunds; (3) volunteerism is high among CUs and this with certain other subsidies keeps CU costs to a minimum; and (4) some CUs appear to be borrower oriented, choosing to offer credit at a reasonable rate and thereby reducing the opportunity to pay the highest possible rate on savings.

In any event, since CUs are owned and operated by members, whatever balance is struck between borrower and saver benefits has generally been the result of the CU's own determination and not that of NCUA or any other Federal agency.

SMALL SAVINGS ACCOUNT PROBLEM

The events leading up to the present situation appear to have accelerated when Federal authorities concentrated on slowing credit expansion in their efforts against inflation. The yield curve for government securities during 1978 and 1979 rose significantly and shifted in such a way that short-term rates were frequently above long-term rates.

To prevent a precipitous liquidity crunch of the sort that suddenly curtailed homebuilding in previous tight money periods, bank and S&L regulatory authorities created and authorized a $10,000 denomination, floating rate certificate of deposit based on the 6-month Treasury bill rate. This new financial instrument, the money market certificate, was designed to slow or halt the flow of large accounts into bank negotiable certificates of deposit and Treasury bills. While the money market certificates solved some of the problems associated with tight money and disintermediation, it created a few of its own for CUs and was obviously not available for small savers.

The rate of disintermediation in past tight money periods was mitigated somewhat by a substantially lower number of large accounts, general unfamiliarity with just how to go about purchasing Treasury bills, and a less than full awareness of the opportunity cost imposed on savers by Regulation Q. The availability of a Treasury bill-like instrument from commercial banks and S&Ls in advertisements touting the benefits of the new instrument increased public awareness and facilitated the shift of funds out of regular savings and time deposits.

NCUA authorized money market certificates for CUs in November in response to the significantly lower rate of growth of CU savings in October, 1978 caused by savings outflows to these instruments. NCUA's action was an effort to slow or stop the outflow of funds from CUs.

In many respects, the saver inequity problem is the result of efforts to halt the flow of large denomination accounts and reduce the instability caused by rapid shifts from institution to institution of these rate sensitive large accounts. The inevitable effect, coupled with the general rising public awareness of interest rate differentials, has been pressure to offer small account savers the same rate advantages which had been made available to large account holders for the very purpose of preventing the outflow of the large accounts. The trend of interest rate sensitivity is irreversible and will result in the shifting of ever smaller accounts to those institutions offering the highest return of savings.

I believe the evidence is clearer every day that the present structure of Regulation Q can no longer insulate thrift institutions from competition from other savings alternatives. The growth of money market mutuals, 276 percent in 1978 and 100 percent in the first four months of 1979, as well as the continuous emergence of innovations such as the First Pennsylvania Bank's small saver repurchase transactions, the Merrill Lynch Cash Management Plan and other broker plans, public utility debt certificates, and Sears & Roebuck's proposal to offer to its customers securities in small denominations are some of the alternatives available to the small saver.

My responsibility as a regulator is to assure that CUs are afforded a full opportunity to satisfy the purposes for which they were created. As stated in the FCU Act, the purpose of a CU is to promote thrift among its members and to create a source of credit for provident and productive purposes. To do this, CUs must be able to structure their operations to meet the needs of borrowing and savings members. This need for flexibility makes it difficult for NCUA to completely follow the example of other Federal agencies in regulating the specific terms and conditions of savings instruments. Instead, we have adopted the approach of setting outside limits on rates, denominations, and maturities, within which CUs can operate in a safe and sound manner to meet the needs of their membership.

THE NCUA REGULATION

Mr. Chairman, our proposed regulation was published for comment on April 9, 1979. For your record, I would point out that we have not received any comments on this proposal from the consumer groups which represent the small savers.

Our final regulation published on May 30, 1979, raises the permitted certificate rate to the higher rate of 7¾ percent *or* 1 percent below the yield on 4-year Treasury certificates. (The rule can be found elsewhere in this publication.) In addition, we have provided a new type of systematic savings plan which CUs may offer to their members. The following parameters to the plan are established within which the CU is free to tailor accounts best suited for its particular members.

1. Like other certificate type accounts, these accounts may earn dividends up to 7¾ percent or up to 1 percent below the yield of four year Treasury securities, whichever is greater.
2. The minimum amount on these accounts is to be established by the CU.
3. In order to open this systematic savings account, the CU member establishes in writing a regular savings plan for specific periodic additions to the account.
4. The term of these certificates is continued at not less than 90 days nor more than 6 years and is determined by the CU.
5. Additions to the account in accordance with the terms of the written savings plan will not extend the maturity of the certificate. Withdrawals may be made without penalty by providing a minimum of 90 days notice to the CU.
6. Exact terms and conditions will be disclosed to the member on opening the account.

By offering a systematic savings plan in the form of a notice certificate, CUs will not only encourage thrift among their members and reward the small account holders, but will also add a certain stability to the funds of the CU through the use of the notice requirement and because there is a penalty if notice is not given.

A credit union member might have a savings certificate account as follows:

1. An initial deposit of $100 to meet the minimum for that CU.
2. A payroll deduction of $25 per month into this account for two years.
3. A dividend rate of 7½ percent.
4. Withdrawals without penalty by giving 90 days notice (if this is the term established by the CU).

I would hope that this further refinement of the share certificate regulation would give the CUs new latitude in certificates to meet any small saver concerns they might have.

Subcommittee Questions

Turning now, Mr. Chairman, to the questions posed in your letter of invitation to testify, the NCUA offers the following responses:

Question 1: A full outline and timetable of the decision-making process which led to the adoption of the new regulations issued on May 30 to provide additional returns to savers (including any part which may have been played in this process by the President's message urging Congress to act on this matter).

Response: NCUA decision-making process is outlined in the following timetable.

Timetable of Events

Date	Event
April 19, 1977	Passage of P.L. 95-22. Granted powers for FCUs to offer share certificates.
July 19, 1977	NCUA Proposed Rule to implement share certificate provisions of P.L. 95-22.
November 22, 1977	NCUA Final Rule implementing P.L. 95-22.
June 28, 1978	NCUA Rule on IRA and Keogh accounts and accounts in excess of $100,000.
November 15, 1978	NCUA Rule on Money Market Certificates.
January, 1979	Began NCUA planning as well as working with ICC on instruments to assist the small saver.
February 8, 1979	Federal Reserve study on Small Saver reviewed and evaluated by NCUA.
March 13, 1979	NCUA staff report on the small saver issue. A copy of this report is attached. (See Memorandum – "Credit Union Account Modification Options"). This contains much of the decision making process which was used in reaching our final determination.
March 22, 1979	Small Saver Hearings – Congressman Rosenthal.
April 9, 1979	NCUA Proposed Rule on small saver certificates.
April 11, 1979	Small Saver Hearings – Senators Cranston and Proxmire.
May 7, 1979	Small Saver Hearings – Congressman St. Germain.
May 22, 1979	President Carter's message on financial reform.
May 30, 1979	NCUA Final Rule on small saver certificates.

Question 2: Your assessment of the extent of increased benefit provided by the new regulations issued on May 30 for small savers.

Response: It is premature for us to be able to measure any dollar benefits. However, one immediate benefit is the increased flexibility given to CUs. I believe one of the most substantial consumer benefits will be the systematic savings plan.

Question 3: Where you feel the responsibility lies or should lie for consumer education, information, and protection in the area of savings and simple investment instruments for the public at large.

Response: This responsibility is, of course, shared by the individual, the CU and to some extent the regulator. Credit unions have traditionally focused on member education in the form of newsletters, notices, and counseling.

NCUA has established an office of Consumer Affairs to assist in answering questions and handling problems relating to the financial matters of CU members. However, the primary responsibility lies with the individual member and his CU.

Question 4: Your assessment of the effect of prohibiting financial institutions from pooling depositors' funds in order to allow the depositors to earn higher interest, while in certain circumstances allowing banks to accept pooled funds.

Response: The NCUA permits CU members to pool funds at their FCU at their own initiative. Therefore, organizations of elderly savers, such as members of the Gray Panthers, could form their own CU under an associational common bond and, by pooling their resources this way, they could pay themselves whatever dividend they choose consistent with the CU's investment earnings.

The effects of not pooling are several and we would mention the following.

1. It would inhibit in certain circumstances the financial institutions from paying small savers a market rate of interest.
2. It would prevent to a limited extent the cost of funds in these institutions from rising rapidly.
3. It might enable those institutions, because of the lower cost of funds, to charge lower loan rates.

Question 5: Your estimation of effects which paying market or near-market rates to small savers might have upon various financial institutions, the mortgage money supply, loan interest rates, and consumer saving and spending patterns.

Response: In our judgment, the effects of paying near-market rates to small savers are:

1. A higher cost of funds to financial institutions and higher charges on loans of all types including mortgages.

2. Simultaneously however, the higher rates on savings are expected to shift a greater percentage of savings to financial institutions. The higher loan rates will encourage borrowers of all types to exercise more discipline in borrowing. The ultimate effects are likely to be relatively more consumer savings and less consumer borrowing.

Question 6: Your recommendations for further action to ensure equity for the small saver.

Response: Mr. Chairman, I would recommend a continued effort to enact the reform legislation proposed by President Carter. Such a proposal, as you know, is before the Senate Banking Committee as S. 1347 and I testified in support of the measure yesterday. With an orderly phase-out of interest rate ceilings, we remove the underlying cause of the inequity problem instead of continuing to treat symptoms.

Mr. Chairman, this concludes my testimony. I will be happy to answer any questions you might have.

TABLE 1

Selected Data Pertaining to Credit Union Total Savings, Six-Month Money Market Certificates (MMCs) and Certificates of Indebtedness (CIs), Monthly, 1978 and 1979

[Amounts in Millions]

Item	1978			1979		
	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.[1]
Total savings, end of month (S.A.)	$52,587	$52,892	$53,398	$52,456	$52,869	$53,477
Net Change during month:						
Amount	$131	$306	$506	$-942	$413	$608
Percent	0.2	0.6	1.0	−1.8	0.8	1.2
CI balance, end of month (N.S.A.)	$1,505	$1,525	$1,546	$1,526	$1,495	$1,357
Percent of total savings	2.9	2.9	2.9	2.9	2.8	2.5
Net change during month:						
Amount	$65	$20	$21	$-20	$-31	−$138
Percent	4.5	1.3	1.4	−1.3	−2.0	−9.2
Credit union MMC's, end of month (N.S.A.)	----	([2])	$330	$600	$950	$1,278
Percent of total savings	----	----	0.6	1.1	1.8	2.4
Net change during month:						
Amount	----	----	$330	$270	$350	$328
Percent	----	----	----	81.8	58.3	34.5
Percent of Large CUs offering MMC's[3]	----	----	26.0	34.7	37.7	38.7
Total CIs and MMC's, end of month (N.S.A.)	$1,505	$1,525	$1,876	$2,126	$2,445	$2,635
Percent of total savings	2.9	2.9	3.5	4.1	4.6	4.9
Net change during month:						
Amount	$65	$20	$351	$250	$319	$190
Percent	4.5	1.3	23.0	13.3	15.0	9.2

[1] Preliminary.

[2] Authority to offer savings instruments similar to MMC's granted Federal credit unions on November 20, 1978.

[3] Percent of credit unions offering MMC's based on small sample of federal credit unions with assets $5 million or more.

TABLE II

Dividends Paid On Regular Share Accounts By Federal Credit Unions, Selected Yearends, 1972 to 1977

Dividend rate category (%)	1977	1974	1973	1972
	Number of credit unions paying as of Dec. 31,			
Total	12,750	12,748	12,688	12,708
None	762	858	881	1,111
0.1 to 3.99	236	315	386	538
4 to 4.99	443	763	1,049	1,636
5 to 5.99	3,182	4,440	5,588	6,572
6	3,979	3,693	3,488	2,861
6.01 to 6.99	2,212	1,385	686	—
7	1,936	1,240	598	—
	Percent distribution			
Total	100.0	100.0	100.0	100.0
None	6.0	6.7	6.9	8.7
0.1 to 3.99	1.9	2.5	3.0	4.2
4 to 4.99	3.5	6.0	8.3	12.9
5 to 5.99	25.0	33.3	44.0	51.7
6	31.2	29.5	27.6	22.5
6.01 to 6.99	17.3	12.4	5.4	—
7	15.2	9.9	4.7	—

Note: On September 13, 1973, the Administrator of NCUA increased the maximum dividend rate payable on regular shares in Federal credit unions from 6 to 7%.

Memorandum

DATE: March 13, 1979

FROM : Robert H. Dugger, Executive Officer
TO : Lawrence Connell, Administrator
SUBJ : Credit Union Account Modification Options

I. Summary and Recommendation

Regulation Q ceilings on bank and savings and loan association deposit interest rates and similar ceilings imposed by NCUA on credit union (CU) share accounts prevent consumers from obtaining market rates of return on savings and time deposits. In an environment of high and rising market rates and inflation, such ceilings are causing significant injury to those unable to purchase money market instruments because of the $10,000 minimum denomination and prohibitions on pooling the resources of individual savers. Rate ceilings may also be distorting household saving patterns by diminishing depository asset attractiveness relative to real goods and causing households to save in the form of home and durable goods ownership.

To mitigate consumer inequity, market distortions, and possible instability which may derive from rate constraints on CUs, four options ranging from leaving the present restrictions intact to eliminating some significant current ceilings have been evaluated. The options are presented in Table 1.

Credit union account restrictions now in effect are:

Account Type	Maximum Dividend	Minimum Maturity	Minimum Denominations
Regular Share*	7%	30 days	$ 5
Share Certificates	7¾%	90 days	$ 500
Money Market Cert.	T-Bill Rate	26 weeks	$10,000
Individual Retirement Acct.	8%	90 days	None

*Includes Share Draft accounts on which there are no minimum maturity requirements.

Of the options studied, the third appears to offer the greatest degree of consumer relief consistent with a sound CU operation. If adopted, this option would result in the following account restriction pattern:

Account Type	Maximum Dividend	Minimum Maturity	Minimum Denominations
Regular Share*	7%	30 days	$ 5
Share Certificate	10%	90 days	$ 500
Money Market Cert.	T-Bill Rate	26 weeks	$2,000
Individual Retirement Acct.	8%	90 days	None

*(Includes Share Draft accounts on which there are no maturity constraints.)

The 7 percent ceiling on regular share accounts, including share draft accounts, would still be well above market rates on insured accounts with daily withdrawal and transaction capabilities. Though a reduction in the MMC denomination to $2,000 is proposed it should not be adopted unless a parallel change is made by the other Interagency Coordinating Committee (ICC) members. If the ICC makes no such change, the 10 percent ceiling, 90 day minimum maturity, and $500 minimum denomination, proposed for share certificates, would amply accommodate CU member needs.

The relatively high dividend rate ceiling opens the door for CUs to offer unjustifiably high rates on share certificates and perhaps endanger earnings. Evidence that CUs are unlikely to offer rates higher than necessary to retain funds is provided in **Tables 2 and 3**.

If interest and inflation rates continue to rise, some modification of the 12 percent loan rate ceiling on FCUs may be necessary. Option 3 includes statutory authority for the NCUA Board to raise the ceiling, if circumstances require it. Congressional acceptance of such legislation should be good, if market rates and inflation become severely aggravated.

II. Analysis

High and rising interest rates and inflation have created a situation in which the maximum dividend rates allowable on CU regular and certificate share accounts are below rates which consumers can obtain on alternative forms of savings. The disparity has caused significant inequity for people whose circumstances prevent them from being able to buy money market instruments. Though such instruments bear high market rates of return, the $10,000 minimum denomination makes them well out of reach of most moderate and low income households.

The rate limitations on bank and S&Ls savings and time deposit accounts are the result of Regulation Q and, on CU, the result of NCUA's willingness to parallel its regulatory style to that of other regulatory agencies. Regulation Q, however, has not prevented consumers from taking advantage of alternative forms of savings.

Direct purchases of government securities, money market mutual fund shares, and inflation boosted residential equity, have become steadily more attractive ways of saving as interest rates rise further and further above Regulation Q ceilings. Saving outside of financial institutions, however, has not been accomplished without costs.

Direct purchases of government securities subject consumers to market risks with which they may not be familiar. Money market mutual funds are unsupervised and operate without the benefit of Federal support mechanisms. Moreover, shares in mutual funds are not insured. Residential equity, with its tax advantages and accessibility through second mortgage loans, is a highly attractive savings vehicle in the present inflationary environment. Its attractiveness, however, depends on continued prosperity. A significant recession would subject equity savers to the full range of market risks — illiquidity, delay, and depreciation.

There is little doubt that saving via insured financial intermediaries is, in an aggregate economic sense, more efficient and that relaxing Regulation Q restrictions would begin to restore the attractiveness of depository assets as savings vehicles. The question is, can Regulation Q constraints be relaxed without causing significant earning problems, particularly for thrift institutions. The answer to this question appears to be no. Relaxation of Regulation Q will result in earnings problems and financial instability of unknown duration. It is important to note, however, that instability cannot be avoided by retaining Regulation Q..Even attempts to modify Regulation Q with carefully tailored market-like instruments have not been altogether successful.

Instruments created by government fiat with strict maturity, denomination, and rate characteristics are likely to be beneficial, on balance, when first introduced. But as circumstances change or the reasons the instrument was created become aggravated from causes quite remote from the instrument itself, the instrument can become a contributing factor to further instability. Consequently, a regulatory approach which specifies as few terms as possible in a rapidly changing economic environment, would seem to be a preferred one.

Retaining Regulation Q in its present form will simply assure continued development of non-depository savings vehicles. Eventually, savings (and transaction) mechanisms will move outside the control of Regulation Q and the present supervisory structure. Since "adjustment" processes are rarely stable in a supervisory sense, the issue facing NCUA is not instability, but whether NCUA will exercise a moderating influence over CU adjustment to a non-Regulation Q environment.

In formulating its regulatory approach, NCUA must consider a number of factors including its own limitations. The financial issues facing NCUA are reflections of real phenomena taking place in the domestic and international economy and of the Federal Reserve's monetary policy responses. Knowing as little as we do about prospective domestic and international developments and monetary policy intentions, NCUA's approach must provide sufficient flexibility to enable CUs to cope with a wide range of possible economic circumstances. The approach should also reflect continuation of less than complete coordination among Federal regulators.

NCUA must also consider the 12 percent usury ceiling on FCU loan rates. Successful administration of a consumer loan portfolio requires at least a 200 basis point spread. If CU loan rates were to rise to the 12 percent ceiling and market rates available to small savers rose significantly above 10 percent for a long period of time, CUs would experience outflows of funds. They would be unable to pay a dividend above 10 percent because the FCU Act allows dividends to be paid only to the extent current earnings allow.

If market rates were to rise above 10 percent during a recession serious enough to cause significant loan losses, many CUs would be unable to pay dividends as high as normal circumstances would allow. Loan losses coupled with share outflows could mean liquidation for many CUs, even well-managed ones.

This past January total savings of state and FCUs declined 1.8 percent on a seasonally adjusted basis. This outflow is the largest on record and may reflect several factors. If CU shares are to be withdrawn for any reason, they are usually withdrawn after the period on which dividends are calculated, ends. For virtually all CUs December 31 concludes a dividend period. Much of the January outflow is likely to have been funds that would have been lost in earlier months, if dividends had been calculated on a daily or monthly basis.

Though the causes of the outflow are not precisely known and are being researched, we expect competition from MMCs and money market mutual funds to have been a major factor. The outflow whether measured over weeks or months is substantial and underscores the need for modification of the restrictions on CU share accounts.

III. Options

Four options for handling CU account restrictions are presented in **Table 1**. The first option is to do nothing, leaving the present pattern of account rates, maturities, and denominations intact. The second and third reflect greater degrees of modification, and the fourth involves elimination of certain rate ceilings altogether. An attempt has been made to depict the options in such a way that portions could be recombined to form new options, if desired.

1. *Option 1* would retain present account restrictions and thereby maintain the present consumer inequity and potential for disintermediation. There appears little to recommend this option apart from the inherent desirability of altering familiar operating practices as little as possible.

2. *Option 2* would increase the maximum dividend rate on share certificates to 9 percent and reduce the minimum denomination on money market certificates (MMCs) to $2,000. The MMC denomination reduction should be adopted only if all ICC members do the same. Consumer inequity would be substantially reduced by the MMC denomination reduction and the availability of more competitive rates on share certificates. Similarly, disintermediation potential would be reduced significantly.

One weakness, however, weighs heavily against this option. If rates were to rise above 9¼ percent, funds would flow out of share certificates and out of CUs that do not offer MMC's. Since relatively few CUs offer MMC's, the outflow could become a significant supervisory problem. Such circumstances, however, would not be

TABLE I
MODIFICATION OPTIONS FOR
FEDERAL CREDIT UNION ACCOUNT RESTRICTIONS

OPTION	ACCOUNT TYPE	MAXIMUM DIV. RATE	MINIMUM MATURITY	MINIMUM DENOMINATION	LEGISLATION	COMMENTS
1. a.	Regular Share[1]	7%	30 days[2]	$ 5		Reflects present situation and sustains saver inequity and disintermediation potential.
b.	Share Certificate	7¾%	90 days	$ 500		
c.	Money Market Cert.[3]	T-bill rate	26 weeks	$10,000		
d.	Individual Ret. Acct.[3]	8%	90 days	None		
2. a.	Regular Share[1]	7%	30 days[2]	$ 5		Reduces saver inequity and disintermediation potential but does not provide sufficient flexibility in view of current economic uncertainties.
b.	Share Certificate	9%	90 days	$ 500		
c.	Money Market Cert.[3]	T-bill rate	26 weeks	$ 2,000		
d.	Individual Ret. Acct.[3]	8%	90 days	None		
3. a.	Regular Share[1]	7%	30 days[2]	$ 5		Eliminates saver inequity and disintermediation potential and provides for maximum portfolio flexibility consistent with loan administration costs. If inflation rates rise above present levels, Congress should be very receptive to legislation allowing NCUA to relax the 12% loan rate ceiling.
b.	Share Certificate	10%	90 days[2]	$ 500		
c.	Money Market Cert.[3]	T-bill rate	26 weeks	$ 2,000		
d.	Individual Ret. Acct.[3]	8%	90 days	None		
e.					Authority to raise 12% loan rate ceiling[4]	
4. a.	Regular Share[1]	None	30 days[2]	$ 5		Eliminates saver inequity and disintermediation potential but not in a manner consistent with sound credit union operation or the present regulatory context.
b.	Share Certificate	None	90 days[2]	$ 500		
c.	Money Market Cert.[3]	T-bill rate	26 weeks	$ 2,000		
d.	Individual Ret. Acct.[3]	8%	90 days	None		
e.					Authority to raise 12% loan rate ceiling[4]	

[1] Includes share draft accounts. Note there are no maturity constraints on share draft accounts.

[2] At the credit union's discretion the minimum maturity can be relaxed without penalty to savers.

[3] MMC and IRA terms should be kept identical to those of banks and savings and loan associations.

[4] Refers to legislation enabling the NCUA Board to raise the 12% loan rate ceiling to levels commensurate with portfolio administration costs and rates available to savers, if economic circumstances require it.

radically different from what NCUA faces now. Credit unions offering MMC's would see funds flow out of share certificates and into MMC's. Except for the funds cost increase, there would be no effects that could not be dealt with by increasing loan rates to the 12 percent ceiling.

If market rates were to rise above 10 percent, the 200 basis point spread needed to administer a consumer loan portfolio would be threatened, and CUs would begin to experience serious disintermediation and earnings difficulties.

Whether Option 2 is the most desirable depends somewhat on the actions of other regulatory agencies, but mainly on future inflation and interest rates. If it is reasonable to believe interest rates could rise above 10 percent for six to nine months or more, then this option should be rejected. It is a "moderate" option involving moderate changes in CU account restrictions.

3. *Option 3* would increase the maximum dividend rate to 10 percent on share certificates. Though MMC's could be offered within the proposed share certificate restrictions, they are specifically provided for because it would be difficult to rescind their use now, and there may be a need for them to retain funds during short periods of very high interest rates. Though Option 3 proposes lowering the MMC minimum denomination to $2,000, this change should not be adopted by NCUA unless other ICC members do the same.

The 7 percent dividend rate ceiling on regular share accounts, including share draft accounts, would be retained because that ceiling appears to be still well above the market rate of return on insured accounts with daily withdrawal and transaction capabilities. If savers felt they were incurring an opportunity cost by maintaining savings in regular share accounts, we would expect them to shift those funds into share certificate accounts which pay a higher yield but also require a longer commitment.

If element (e) of this option were in place and MMC rates rose above 10 percent the NCUA Board could raise the 12 percent loan rate ceiling to cover portfolio administration costs. Though Congressional attitudes toward such legislation have not been favorable in the past, they should improve markedly if inflation and interest rates rise further.

The appeal of Option 3 is the flexibility it would afford CUs to adjust their liabilities to meet members needs and market competition. The maturity denomination restrictions on share certificates are low enough not to impede CUs from tailoring share certificate programs to membership needs.* The rate ceiling is high enough to enable them to retain funds in the face of stiff market interest rate competition, but not so high that certificate programs could seriously erode the spread needed to administer consumer loans.

The third option is not without weaknesses and one of them may be serious. Frequently, interest ceilings are interpreted as interest rate minimums. Though expressed as a maximum, the T-bill discount rate has almost universally been interpreted as the prescribed rate on MMCs. As a consequence, earnings problems and inter-institution funds shifts may have been more serious in some areas of the country than they needed to be.

The limited management expertise of CUs suggests that offering unnecessarily high rates on share certificates could be a problem under Option 3. The facts, however, are reassuring. Though there are no rate restrictions on CU Certificates of Indebtedness (CIs), few have been offered at the highest affordable rates. Instead, as **Tables 2 and 3** show, CI's have been offered at or below the prevailing rates on uninsured instruments of like maturity. Money market mutual fund shares were yielding 9.8 percent and 9.6 percent in January and February, respectively. At the end of February, the average of the highest rates being paid on CIs was 7.7 percent. Some CUs were offering CIs at rates over 8.5 percent, but none over 9 percent. Thus, it appears the common sense of CU managers not to offer share certificate rates higher than necessary to retain funds, coupled with NCUA admonitions, can be relied upon.

4. *Option 4* would eliminate dividend rate ceilings on regular and certificate share accounts and enable the NCUA Board to raise the 12 percent loan rate ceiling, if circumstances required it. In a world where low and middle income savers could obtain rates above 10 percent, Option 4 would be no different from Option 3. Option 4, however, represents a significant break from present regulatory practices and lacks the aspect of "gradualism" necessary for successful relaxation of Regulation Q constraints. For these reasons and the political complications ceiling elimination would generate, Option 4 is not recommended.

ROBERT H. DUGGER

---

*For example, rather than a large denomination instrument with a high rate and six-month maturity, consumers may prefer a sequence of small denomination instruments with a somewhat lower yield and overlapping 2-month maturities. Such a preference could enhance consumer liquidity and credit union share certificate funds stability.

(Note tables 2 and 3 on page 12.)

TABLE 2
AVERAGE INTEREST RATES PAID ON CIs OUTSTANDING AT A SAMPLE OF FEDERAL CREDIT UNIONS THAT LOST OR DID NOT LOSE LARGE SHARE ACCOUNTS IN FEBRUARY, 1979, BY CI MATURITY AND ASSET SIZE CATEGORY

Asset size (in millions)	Total	Less than 6 months	6 months to 1 year	Longer than 1 year
			Total, All Sample	
Total	7.7	8.0	7.9	7.6
$5 - $9.9	7.2	7.3	7.1	7.2
$10 - $19.9	7.9	8.4	7.8	7.7
$20 or more	7.9	8.0	8.1	7.6
			FCU's Losing Large Share Accounts in Feb.	
Total	8.0	7.9	8.2	8.0
$5 - $9.9	7.3	8.0	—	7.2
$10 - $19.9	7.8	8.1	7.7	7.7
$20 or more	8.1	7.9	8.3	8.2
			FCU's Not losing Large Share Accounts in Feb.	
Total	7.6	8.2	7.8	7.1
$5 - $9.9	7.2	7.2	7.1	—
$10 - $19.9	8.4	8.7	8.0	8.2
$20 or more	7.6	8.2	7.5	7.0

NOTE: Data are weighted averages of highest rate paid by a sample of relatively large Federal credit unions.

TABLE 3
AMOUNT OF CIs OUTSTANDING AND AVERAGE INTEREST RATE PAID AS OF FEBRUARY 1979, BY SIZE OF CI
[AMOUNTS IN THOUSANDS]

Size category	CIs Outstanding		Average interest rate paid[1]
	Amount	Percent distribution	
Total	$1,122.0	100.0	7.7
$1,000 or less	38.5	3.4	7.5
$1,001 - $2,000	98.1	8.8	7.4
$2,001 - $4,999	246.7	22.0	7.3
$5,000 - $9,999	256.1	22.8	7.6
$10,000 or more	482.6	43.0	8.1

[1] Data are weighted averages of highest rates paid by a sample of relatively large Federal credit unions.

Depository Institution Deregulation Act

June 27, 1979

On June 27, 1979, Administrator Connell appeared before the Senate Subcommittee on Financial Institutions of the Committee on Banking, Housing and Urban Affairs to discuss the Depository Institutions Deregulation Act of 1979 (S. 1347) and its importance to the CU movement.

****

Mr. Chairman
Members of the Subcommittee

I am pleased to be here today to present the views of NCUA on S. 1347, the Depository Institutions Deregulation Act of 1979. This legislation addresses one of the most urgent matters facing CUs at this moment and I hope that our efforts will be successful in meeting the January 1 deadline imposed by the Court of Appeals.

Prior to commenting on the legislation before us, I think it is important to briefly review for the record our actions regarding the CU share draft programs and to spell out the serious impact on our nation's CUs that would result if we fail in our efforts today.

I would hope that the Committte report on S. 1347 would indicate that the Commmittee, in proposing this legislation, did so to guarantee that important services continue to be available to consumers and, further, that no opinion was intended regarding the interpretation of Federal law made by the U.S. Court of Appeals for the D.C. Circuit in its decision of April 10, 1979.

BACKGROUND OF SHARE DRAFTS

On October 1, 1974, this agency approved three experimental share draft programs on the basis of examining a new and innovative means for members to access their accounts. This experimental program was expanded and as of February 1, 1977, NCUA had approved 585 FCU share draft programs. We determined that indeed it provided CU members with a contemporary means of withdrawing funds and eliminated the delay and inconvenience of withdrawing funds by mail or in person. Additionally, the ability of the CUs to manage such a program has been demonstrated.

During the pilot program this agency carefully monitored the performance of the test group to determine whether problems might develop concerning the operational capacity of FCUs to process share drafts or their ability to monitor overdrafts. No such pattern of problems was encountered and thereafter NCUA issued a final regulation implementing the share draft program on November 30, 1977. That regulation and our implementing internal procedures were designed to continue a careful oversight of share draft activities including a reserve requirement for liquidity reserves with respect to share draft programs.

At all stages during the share draft program, NCUA published instructions which established guidelines for both the approval and the operation of share draft programs. These are, of course, available for the record upon request. The growth and success of the program was remarkable when considering the dampening effects of the American Bankers Association/Tioga State Bank lawsuit contesting the legality of share drafts which was filed on September 7, 1976.

Providing impetus to the consideration of a withdrawal mechanism for CUs was the advent of the Federal Government's direct deposit of recurring payments program. In 1972, Congress enacted Public Law 92-366 to permit the directing of Federal recurring payments to financial institutions, including CUs, designated by individual payment recipients for credit to the individual's personal account. Upon enactment, the Department of Treasury and the Social Security Administration commenced implementation of the direct deposit program.

The purpose of the program is to improve service and provide greater security and convenience to government beneficiaries. Not only are there many CU members receiving retirement payments who are eligible for this program but in addition there are almost 900 CUs with $9 billion in assets which serve civilian and military occupational groups all of whom are eligible for this program.

It was soon recognized that there was an inherent weakness in the CU system: the lack of a convenient and practical mechanism for withdrawal of funds. In order to participate in the direct deposit program, i.e., to be designated by a payment beneficiary/CU member, CUs had to provide a method whereby the recipient could effectively, conveniently, and practically make use of the funds deposited. Withdrawal by means of personal appearance, telephone or mail would not meet the needs of a CU member.

After publishing our final share draft rule on November 30, 1977, the programs were moved from the experimental category on March 6, 1978. By year-end 1978, NCUA had approved 976 FCU share draft programs. Of this number, 821 are operational and over 878,000 FCU members have over $783 million in these accounts. During the last quarter of '78, 26.5 million share drafts were processed totalling almost $1.7 billion. Additionally there are approximately 800 state chartered CUs operating in 33 states with a total of 500,000 accounts.

LEGAL BASIS FOR SHARE DRAFTS

The major issue involved in the promulgation of the share draft regulation was whether FCUs can legally permit their members to make withdrawals of funds from a share account by means of a negotiable or nonnegotiable draft. While the legality of any new program is always at issue, it was a major issue in this instance because of the potential for litigation.

At the time the proposed rule was published, this Administration made the determination, which we believe continues to be valid, that share drafts were lawful for FCUs. The following legal determinations were made:

(1) The use of share drafts is not inconsistent with the purposes of FCUs, including the express statutory purposes of promoting thrift and creating a source of credit;

(2) In the absence of an express prohibition, the common law authorizes any member of a CU to draw a draft on his share account with the CU;

(3) Neither the FCU Act, the legislative history of the FCU Act, nor the legislative history of Federal statutes governing other financial institutions demonstrates an intention on the part of Congress to prohibit the use by FCUs of either share drafts or similar methods of withdrawal;

(4) The use of share drafts, as a method of withdrawal, is impliedly authorized under the FCU Act as an exercise of the express powers to receive withdrawable shares and make contracts;

(5) The operation of a share draft program is a proper exercise of incidental powers under the FCU Act; and

(6) Balancing the relevant policy considerations and considering the Congressional mandate that the NCUA be responsive to the needs of FCUs, ambiguities, if any, must be resolved in favor of upholding a share draft program.

In addition to the operational difficulties the Court decision will have on share drafts and related programs, the possibility exists for even greater and potentially more serious adverse implications. It would appear that the Court has set in motion the possibility that the NCUA and the other financial Federal regulatory agencies must receive Congressional approval for evolutionary or technologically advanced procedures developed to implement express and implied powers but which were not specifically contemplated or in place at the time of enactment of the statute or any amendment thereto. The regulation of financial institutions, particularly FCUs, most certainly will be unduly restricted. There is no question that the efficient and proper administration of FCUs will be undermined.

In many instances, regulatory authorizations will be tied to standards and procedures that are obsolete. In our view, this conflicts with well established principles of law and, in-so-far as the NCUA is concerned, its congressionally mandated responsibility "to be more responsive to the needs of CUs and to provide more flexible and innovative regulations" (S. Rpt. 91-518). NCUA has carefully exercised this authority in a controlled fashion using experimental programs wherever possible and has given due consideration to the fundamental purpose of CUs and the provisions of the FCU Act. Nevertheless, there can be no doubt that the Court's apparent construction of the NCUA's statutory authority will create unnecessary burdens not heretofore encountered.

IMPACT ON CREDIT UNIONS OF SHUTDOWN ON SHARE DRAFT PROGRAM

The Court, in its decision, commented as follows regarding the potential effects of its ruling:

> "We recognize that enormous investments have been made by various financial institutions in the installment of new technologies, that methods of financial operation in the nation have rapidly grown to rely on much of this, and that disruption of the offered services would necessarily have a deleterious impact on the financial community as a whole, in the absence of the certainty that new procedures are authorized for the foreseeable future, which certainly only a Congressional enactment can give."

In attempting to portray for the Subcommittee the likely effects of a lack of Congressional action in response to the Court's action, we examined several areas. Our assessment of the situation led to the conclusion that if remedial Congressional action is not completed by October 1, 1979, the tentative adjournment date, the NCUA will be forced to announce phase-out plans for all FCU share draft programs on that date.

The effects on CUs of a shutdown are in several categories. The first would be the economic impact on CU members who would be forced to change from a share draft account in a CU to a demand deposit account in a bank.

A survey last year by I.C.U. Service Corporation, a business which provides share draft clearing services to over 1200 CUs (both Federal and state) indicates that the cost per share draft was approximately $.17 in 1977. The cost of the demand deposit operation in commercial banks, judging from the Federal Reserve's 1977 Functional Cost Analysis results, appear to have been $.34 per check. While there may be some imprecision in the cost comparison, the magnitude of the difference clearly shows that share drafts are the lower cost method of handling household third party transactions. Closing down the share draft program means that the 2.1 million members of households with share draft accounts will be forced to use a system which, as can be seen, is considerably more expensive.

Not only will these consumers be forced to use a less efficient method, they will in addition suffer the loss of an estimated $21 million of dividends.

The second effect would be the adverse impact on the incomes of CUs. A number of CUs appear to be dependent on revenues from share draft programs. Our concern here is the safety and soundness of those CUs which will lose a substantial portion of their income with the shutdown of these programs.

Moreover, it appears that share draft programs are becoming an important reason for consumers to choose CUs. In addition to the income loss effects, we feel that substantial numbers of persons may actually terminate their membership. While CU membership is not a direct concern or a responsibility of ours as a regulator, a sudden drop in membership will be accompanied by a sudden outflow of funds. This latter effect is a concern and responsibility of this agency.

LIQUIDITY PROBLEMS

The third effect is the actual outflow of funds. Though we can not at this time say precisely how much money would flow out of CUs starting on October 1, it will probably be at least $500 million. In the unlikely event that all members with these accounts withdrew not only their share draft balances but also their other share accounts, the outflow could be as high as $2.1 billion. We feel that a realistic estimate would range between $500 and $800 million. Such an outflow at the very least would result in a comparative decrease in availability of funds for consumer loans and could cause FCUs to experience significant liquidity pressures. I would point out that these figures do not include any of the effects which may take place with respect to state chartered CUs.

Mr. Chairman, the anticipated limited resources of the Central Liquidity Facility (CLF) might not be sufficient to meet the potential outflows resulting from the shutdown of these programs, not to mention any serious liquidity problem that might arise from a somewhat volatile economy. I am sure that the Subcommittee shares my concern over the urgency of this matter.

DEPOSITORY INSTITUTIONS DEREGULATION ACT

Turning now to the proposal which you and Senator Proxmire have introduced, I am pleased to offer the support of the NCUA.

First, your legislation will benefit all consumers by authorizing federally chartered institutions to offer NOW accounts and share drafts. This means that individuals will no longer be burdened with an obsolete prohibition against receiving a return on funds placed in a transaction account. For CU members, it will mean that not only will the critical situation of a discontinuance of programs be avoided, but this proven service can now be expanded unfettered by the threat of continuous litigation.

Second, this proposal will benefit consumers in terms of return on savings and in efficiency of operations of financial institutions. A removal of rate controls is a removal of both an artificial barrier to competition and a restraint on the natural allocation of funds. I have long advocated the removal of these controls, provided that mechanisms were incorporated to ensure that the market was free to compete for mortgage funds.

The phased time schedule proposed in S. 1347 coupled with the enhanced powers for thrifts will, in my opinion, accomplish these goals. While CU savers have not been directly impacted by rate controls, there have been adverse indirect implications. The controls on the rates of banks and savings and loan associations have tempered their competitive effects on CUs enabling the CUs to acquire funds at lower rates than might have been otherwise possible. This bill will ensure that should all the adjustment process to the competitive pressures result in a substantial increase in the rates necessary to attract funds, CUs may be forced to seek Congressional relief from the 12 percent statutory ceiling on loans as set forth in the FCU Act.

Third, the continued availability of mortgage funds will be assisted by the expanded consumer lending power for thrifts and by the removal of restrictions imposed by states which prevent mortgage lenders from earning a market rate of return thereby diverting funds to other areas or other investments. I also concur in the necessity for the Federal Reserve to establish reserve requirements on NOW accounts and share drafts. I am pleased that the Subcommittee recognizes the viability of the CLF in receiving such reserves for CUs with appropriate balances maintained at a Federal Reserve Bank.

DETAILED COMMENTS ON S. 1437

Mr. Chairman, my staff has prepared the following specific comments on the provisions of S. 1437.

1. Sec. 101(c)(6). The definition of the terms 'negotiable order of withdrawal account' and 'share draft account' contain the explanatory clause "even though in practice such notice is not required." This phrase is confusing to us and appears to be unnecessary. I would suggest that it would more appropriately be contained in report language. This comment applies to each section in which these definitions appear.

2. Sec. 105(a)(1). This amendment to paragraph 5 or Sec. 101 of the FCU Act could be interpreted to only apply to State CUs. We would suggest the amendment read as follows:

(1) by striking out "and" between "member account" and "account" and inserting the words "and share draft account" after the word "account".

3. Sec. 105(a)(4). The last sentence in the definition of share draft account which limits it to individuals or non profit groups does present some problems peculiar to CUs. Low income CUs would be restricted from receiving funds into share draft accounts from such sources as corporations or other financial institutions. Also, CUs could possibly no longer have share draft accounts for certain organizations comprised of their members such as investment clubs for example. Finally, it presents a problem for those share draft accounts which a corporate central CU offers to its member CUs.

4. Sec. 105(b). We *strongly* suggest adding the words "subject to the rules and regulations promulgated by the Board."

5. Sec. 106(a) & (b). These sections appear to offer conflicting provisions. On the one hand, share drafts are not included under the maximum rate provisions in 106(a). On the other, existing CU share drafts are grandfathered in 106(b) and further, the NCUA Board is authorized to set higher rates.

6. Sec. 107(b)(3). The word "to" should be inserted prior to the word "postpone".

7. Sec. 107(c). This paragraph is confusing and somewhat restrictive. It removes regulatory flexibility and, while at this point in time we cannot think of an example of an account that might need some temporary controls on it, the years ahead may produce one or more conflicts to this provision. This purpose might better be achieved in report language directing regulators to avoid circumstances which treat small savers unfairly.

8. Sec. 109. This requirement seems unnecessary in light of the current practice of the Committee to examine the "Condition of the Banking System" each year. NCUA participated this year and all of the information required by Sec. 109 was presented regarding CUs. The value of a "joint report" is questionable when compared to the individual reports already being given. NCUA will, however, be glad to submit recommendations for legislation or other necessary actions as an addition to this year's report to the Committee as well as in future years if the Committee so requests.

9. Sec. 302(b). We are concerned that this paragraph could be interpreted to permit a state to enact a usury law which would preempt the statutory 12 percent ceiling on loans by Federal credit unions.

This concludes my prepared statement. I will be happy to answer any questions the Subcommittee might have.

Condition of the Credit Unions

May 23, 1979

On May 23, 1979 Administrator Connell appeared before the Senate Committee on Banking, Housing and Urban Affairs to discuss the condition of the CU system.

****

Mr. Chairman
Members of the Committee

I am pleased to be asked to participate in this third regular oversight hearing on the condition of the banking system. I consider these annual hearings a desirable and important function and welcome the opportunity to discuss the condition of the CU system.

I. GENERAL CONDITION OF CREDIT UNIONS

Let me begin by stating that the CU system is financially sound at the present time although developments during the last quarter of 1978 and in the first quarter of 1979 have combined to place upward pressure on CU loan-to-share ratios and reduce overall liquidity.

During the first six months of 1978, CU resources grew at substantial rates. Loans and savings expanded rapidly although savings growth was below that of loans and less than the 1977 rate of growth. As a result, loan-to-share ratios increased while liquid asset ratios declined. In July, CUs experienced disintermediation for the first time since 1974, mainly as a result of the new six month money market instrument offered by other financial institutions. This resulted in substantial outflows of savings at CUs in July, and again in October. This, along with the reduced rate of growth in consumer savings, combined to substantially reduce growth in CU savings for the last six months of the year.

At the same time, member demand for loans continued at a strong pace throughout the year. New lending powers such as line of credit programs, longer maturity real estate loans, as well as general trends toward longer maturities on consumer durables combined to stimulate loan growth. Consequently, loans outstanding in CUs expanded by record volume in 1978, substantially more than the increase in CU savings. As a result, many CUs were forced to draw down their cash and liquid investments, or to increase borrowing to meet loan demand or curtail their lending.

Despite the developments which seriously affected savings growth over the last half of 1978, CUs experienced relatively strong growth for the year as a whole. Total resources, for example, increased 15.5 percent, while loans outstanding rose 23 percent and members' savings were up 13.6 percent.

In an effort to assist FCUs stem the outflow of large share accounts, the NCUA in late November authorized the use of a savings instrument similar to money market instruments. Initially, few CUs took advantage of the new savings instrument and only about one-fourth of the large FCUs were using them by the end of December.

In January, a major dividend period for most CUs, total savings declined by nearly a billion dollars, the largest monthly net loss of savings on record. Consequently, more CUs were forced to issue money market instruments in an attempt to retain and/or attract savings capital. During the next two months savings recovered slightly. In March, for example, savings increased more than loans outstanding for the first time since August 1978. Nevertheless, in looking at the first quarter of 1979 as a whole, CU savings expanded at an annual rate of just 2.1 percent compared to a nearly 15 percent increase in loans.

With preliminary indications pointing to another outflow of savings in April, it appears that CU liquidity will continue to be under pressure in the months ahead.

Table 1 depicts the liquidity of federally-insured CUs expressed as a ratio of very liquid assets to total share accounts and to total liabilities since 1970. The same table also portrays the availability since 1970 of federally-insured CU capital expressed as the ratio of reserves and retained earnings accounts to total assets. As the data show, the liquid assets and capital ratios were relatively stable until recent years when they began to decline significantly. These trends are likely to continue.

Individually, these trends and the other discussed below have not been viewed with alarm. To a degree they represent acceptable adjustments to the changing nature of CU operations and U.S. financial markets. Considered together, however, they suggest the need for action to assure an adequate degree of liquidity by preventing adjustment processes from going too far.

In **Table 2**, the borrowed funds/total assets ratio since 1970 is presented. This ratio depicts the amount of CU assets supported by funds obtained from non-share account sources and possibly from outside CU fields of membership. In the same table the volume of loans supported by share account funds is depicted. These ratios reflect somewhat different aspects of CU dependence on outside funds. Rising trends in these ratios along with an average loan maturity increase from about 26 months at yearend 1976 to 33 months at yearend 1978 suggest declining CU liquidity.

The public's increasing sensitivity to differences in interest rates paid on savings and transaction accounts is also of importance. This interest sensitivity, which used to be characteristic only of large share accounts, now pervades the accounts of moderate income households. Such interest sensitivity has brought about Money Market Certificates for large account holders and several high yielding savings vehicles for small account holders and is the source of increasing share account volatility.

In **Table 3**, the rates of return available to savers and the average dividend rates paid by CUs since 1970 is portrayed. The difference between rates paid by "money market instruments" and by CUs reveals just one dimension of the widening range of opportunities available to an increasingly more interest sensitive public.

Growing interest sensitivity may lead to substantial erosion of *Regulation Q* constraints on the rates commercial banks and savings and loan associations can pay on savings and transaction accounts. To the extent this occurs, it will diminish a competitive advantage of CUs – the freedom to pay more on regular share accounts than banks or savings and loan associations can pay on savings accounts. Such a trend could contribute significantly to further share account volatility.

To accommodate or halt these trends, NCUA is taking a number of major steps:

(1) The Central Liquidity Facility (CLF), a central bank for CUs created by Congress last November, will be operational in October.

(2) Techniques for sound asset and liability management and investment analysis have been a major part of NCUA's examination program and are being implemented nationally. The new procedures involve examiner instruction of CU officials. These officials continue to primarily consist of unpaid volunteers.

(3) We are also considering a Liquidity Reserve Requirement regulation to halt declining liquidity positions.

(4) We have published for comment a new Share Certificate regulation that would enhance CU ability to meet member needs by paying more on their savings. This regulation would not only meet the needs of "small savers" it would also help stabilize share flows.

(5) We have proposed a regulation to clarify CU use of Certificates of Indebtedness. We are deferring final action pending our evaluation of the new Share Certificate regulation.

II. RATING THE CONDITION AND SOUNDNESS OF CREDIT UNIONS

Since 1972 NCUA has used its Early Warning System (EWS) in monitoring the management, financial condition, and regulatory compliance of FCUs. The objectives of EWS are:

(1) To identify FCUs which have existing or developing problems at the time of examiner contact;

(2) to activate an "alarm" when problems emerge in FCUs between examiner contacts; and

(3) to provide NCUA a measuring instrument with which to gauge performance of FCUs.

The EWS codes are based on 10 indices that consist of qualitative and quantitative measures. Between examiner contacts, adverse trends are detected through data submitted by CUs classified EWS 1, 2, or 3. Federal credit unions coded an EWS "4" will receive additional EWS analysis on a periodic basis.

The Early Warning System is a management tool which basically consists of three stages: (1) collection of data, (2) storage and comparison of data by computer, and (3) analysis by staff. The results of the analysis give information on which to base effective supervision of FCUs. The data and analysis thereof also provide information on which to measure progress of CUs. This information is used in establishing NCUA policy.

III. PROBLEM CREDIT UNIONS

Federal credit unions. At the end of 1978 there were 674 problem CUs out of a total of 12,851. The ratio of problem FCUs to the total in operation has not changed significantly. At the end of 1976 the ratio was only 5 percent, while the ratio was 4 percent at the end of 1977 and 5 percent at the end of 1978.

The significant change is the amount of shares in these CUs. The ratio of shares in problem CUs to total shareholdings for all FCUs rose to 3 percent at yearend 1978. It became clear that the major problems are found in some of the larger CUs. Outlined below is a schedule of the number of problem CUs and their applicable total shareholdings for 1975 through 1978.

Number and Total Savings of Problem
Federal Credit Unions
1975 to 1978
[Amounts in millions]

	Calendar Year			
EWS Category	1975	1976	1977	1978
	Number of FCU's			
Total	12,797	12,833	12,827	12,851
Code 4	796	648	536	674
	Shareholdings in FCU's			
Total	$17,530	$21,130	$25,576	[1] $29,326
Code 4	$255	$231	$221	$860
% of problem FCU shareholdings to the shareholdings of all FCUs	1.5%	1.1%	.5%	2.9%

[1] Preliminary

Federally Insured State Chartered Credit Unions. These CUs have had similar trends, except that the number of problem CUs decreased from 182 in 1976 to 151 at the end of 1978. Total shareholdings in these CUs increased from $339 million at the end of 1976 to $591 million at the end of 1978 based on state prepared examination reports.

Problem Classification Activity. During 1978, the number of FCUs *entering* the problem classification was significantly more than the number of FCUs *leaving* the classification. A total of 612 FCUs entered the classification while only 464 left the category. We believe that the increase in problem case classifications resulted from expanded examination procedures.

This experience resulted in an increase in the number of administrative actions initiated by NCUA during 1978. These actions are necessary to protect the interests of creditors and the shareholdings of CU members. Administrative action is initiated, however, only after intensive constructive supervision provided by NCUA examiner staff fails to correct the cited major areas of concern.

Also, during 1978, preliminary warning letters advising of possible administrative action that could lead to the suspension of charter were issued to 176 CUs. At the end of 1978, there were 128 preliminary warning letters outstanding.

NCUA initiated 31 administrative actions against FCUs during 1978. In 17 cases, actions were taken to suspend the charters of these CUs; 10 notices of charges and hearings were issued that may lead to cease and desist orders; 3 actions were taken to remove or suspend CU officials from further participation in the affairs of the CU; and one action was taken to prohibit a business entity from further participation in the affairs of a CU. At the end of 1978, 17 of these administrative actions were still outstanding.

Special Assistance To Avoid Liquidation. Administrative action may also be taken in the form of special assistance which can be provided to both FCUs and Federally insured state chartered CUs. This assistance is usually provided where external forces affect the financial condition of a CU impairing its ability to operate. Special assistance can be in the form of a loan, in the form of an account established in a CU, or it can consist of the purchase of the assets of a CU. During 1978, 10 Federal CUs and two federally insured state chartered CUs received special assistance in an amount totalling $11,797,822.

Corrective Action. Due to the significant increase in the number of FCUs that entered problem classification during 1978 and the sizeable increase in the number of serious problems disclosed within some of the larger CUs, NCUA is in the process of developing a more comprehensive type examination. This examination will be geared to disclosing and correcting of significant problems primarily within CUs that have $5 million or more in assets. The new examination will have an expanded loan review procedure with increased emphasis on compliance with consumer regulations. We will continue to use our regular examination for the smaller asset sized CU. However, for the smaller CUs with past potential problems a more frequent examination will be made.

IV. AREAS OF CONCERN

There are a few areas of special concern to NCUA which I would like to mention at this time. These are share drafts, the CLF, CU investments and consumer affairs.

Share Drafts

The April 20, 1979, decision of the U.S. Court of Appeals for the District of Columbia has created a potentially serious problem for the safety and soundness of CUs in addition to the obvious loss of consumer benefits. Barring congressional remedy, NCUA will be forced to announce phase-out plans on October 1, 1979, for the 821 FCUs currently operating share draft programs. Additionally, it is very likely that we may have to consider a phase-out of certain CU Electronic Funds Transfer programs, such as Point of Sale or Pay by Phone on that date.

Since there is over $780 million in the other accounts of these members, the potential for a serious outflow of funds exists should these members suddenly be forced to switch to other methods.

There are 870,000 CU members who have over $783 million in their share draft accounts and over $2 billion in their other CU accounts. The potential for a serious outflow of funds exists should these members suddenly be forced to switch to demand deposit accounts at commercial banks as the only remaining vehicle for making third party payments. Our estimate of these outflows is between $400 and $800 million.

We have a further concern regarding the adverse impact on the incomes of these CUs. Reduction in income could produce secondary effects on CU dividends and consequently on members and savings. Preliminary data indicate that a number of CUs appear to be significantly dependent on revenues from share draft programs. Additionally, we are concerned that members who were attracted to CUs by share drafts may elect to terminate their memberships and add to the outflow of funds.

Investments

NCUA is increasing its monitoring of the investments being made by FCUs. We have determined that due to certain abuses, cash forward agreements are considered unsafe and unsound investment activities. Due to competitive pressures, a number of CUs have sought methods to pay higher dividends to their members. Some invested in areas that were not authorized, others succumbing to the lure of certain broker/dealers, sought an easy investment solution to the pressure. Our education and oversight efforts have been stepped up to meet this serious problem We have proposed regulations to prohibit standby commitments and limit the use of reverse repurchase agreements. The investment area has been our number one regulatory problem during this past year.

Central Liquidity Facility

The passage of Public Law 95-630 gave to CUs a long sought after central bank — the National Credit Union Central Liquidity Facility (CLF). The agency has been extremely active in the preparatory stages for the CLF. The target date to begin operations is October 1, 1979.

While the Budget and Appropriations processes won't determine the exact capacity of the CLF until this September, we do have the following information: the Senate did not include the $500 million draw on Treasury in its version of the 1st Concurrent Budget Resolution; the Appropriations Subcommittees appear to be following the President's Budget regarding CLF borrowing authority which is $300 million; borrowings in excess of this amount will require supplemental appropriations; the CU stock subscription is estimated at $100 million. Therefore, the CLF could have a total capacity during FY 80 of between $400 million and $900 million depending on the outcome of appropriations action.

Prior to the court decision on share drafts, our estimates for CU borrowings in FY 80 were for $200 million to meet seasonal needs and $100 million for CU long-term and short-term emergency borrowing.

Consumer Affairs

In order to deal effectively with the increasing complexity of consumer laws affecting CUs, NCUA has stepped up its capability to respond to consumer problems and to broaden our consumer education efforts. Examination procedures were developed to specifically address CU compliance with consumer laws. This resulted in an increase in violations detected and thereby contributed to better education of CU management in methods of compliance. NCUA's educational efforts contributed to an increase in consumer awareness in 1978 which led to a corresponding increase in consumer complaint activity.

This concludes my prepared statement. I will be happy to answer any questions the Committee might have.

TABLE 1

Liquid Asset and Capital to Asset Ratios at Federally-Insured Credit Unions, 1970-78

Year	Liquid assets[1] as a percent of		Total capital as a percent of total assets[3]
	Total shares	Total liabilities[2]	
1970	14.8	13.8	8.0
1971	15.8	14.9	7.5
1972	15.6	14.7	7.2
1973	13.8	12.8	7.0
1974	14.5	13.4	7.0
1975	16.9	14.7	6.8
1976	14.1	13.0	6.3
1977	11.6	10.8	6.0
1978[4]	8.3	7.5	5.7

[1] Liquid assets represents the sum of cash, common trust investments, and shares, deposits, and certificates in other credit unions and financial institutions.

[2] Represents total shares plus notes and accounts payable and all other liabilities.

[3] Total capital represents the sum of total reserves and retained earnings.

[4] Preliminary.

TABLE 2

Loan-to-Share and Borrowed Funds Ratios at Federally-Insured Credit Unions, 1970-78

Year	Loans outstanding as a percent of total shares	Borrowed funds as a percent of total assets
1970	91.3	2.9
1971	88.1	2.3
1972	86.5	2.3
1973	89.1	3.7
1974	89.5	4.1
1975	86.0	3.9
1976	88.5	4.3
1977	90.9	5.3
1978[1]	97.6	7.1

[1] Preliminary.

TABLE 3

Selected Market Interest Rates and Federally-Insured Credit Union Dividend Rates, 1970-78

	6-Month Treasury bills (Market yield)	Money Market Certificates[1] (Effective yield)		Dividend rates at Federally-insured credit unions	
		Commercial banks	Thrift Institutions	Federally-chartered	State-chartered
1970	6.51	—	—	5.44	—
1971	4.52	—	—	5.48	5.55
1972	4.49	—	—	5.54	5.51
1973	7.20	—	—	5.74	5.74
1974	7.95	—	—	6.05	5.98
1975	6.11	—	—	6.15	5.99
1976	5.26	—	—	6.15	6.09
1977	5.53	—	—	6.33	6.22
1978[2]	7.58	8.53	8.81	6.50	6.35

[1] First authorized in June 1978.

[2] Yearend 1978 data for federally-insured credit unions are estimated.

Interest On Demand Deposits and Their Status May 16, 1979

On May 16, 1979, Administrator Connell testified before the House Subcommittee on Financial Institutions Supervision, Regulation and Insurance of the Committee on Banking, Finance and Urban Affairs on H.R. 3864, a bill allowing the payment of interest on demand deposits and also allowing federally insured savings and loan associations and CUs to receive them.

****

Mr. Chairman
Members of the Subcommittee

It is a pleasure to appear here today to present the comments of the National Credit Union Administration (NCUA) on H.R. 3864, a bill to remove the prohibition on the payment of interest on demand deposits and to allow federally insured savings and loan associations and CUs to receive demand deposits.

The April 20, 1979, decision of the U.S. Court of Appeals for the District of Columbia has created a severe situation for a large number of CUs. The prospect of shutting down hundreds of thousands of share draft accounts with their attendant consumer benefits and the amassing of potentially harmful costs to many CUs is to me intolerable. It is my sincere hope that the members of the Subcommittee will agree with my assessment of the urgency of this situation and respond by enacting this legislation as soon as possible.

NCUA ACTIONS ON SHARE DRAFTS

I would like to take this opportunity to review NCUA's action regarding share drafts and re-state our position regarding the appropriateness of our efforts.

On October 1, 1974, this agency approved three experimental share draft programs on the basis of examining a new and innovative means for members to access their accounts. This experimental program was expanded and as of February 1, 1977, NCUA had approved 585 FCU share draft programs. We determined that indeed it provided CU members with a contemporary means of withdrawing funds and eliminated the delay and inconvenience of withdrawing funds by mail or in person.

Additionally, the ability of the CUs to manage such a program had been demonstrated. During the pilot program this agency carefully monitored the performance of the test group to determine whether problems might develop concerning the operational capacity of FCUs to process share drafts or their ability to monitor overdrafts. No such pattern of problems was encountered and therefore NCUA issued a final regulation implementing the share draft program on November 30, 1977. That regulation and our implementing internal procedures were designed to continue a careful oversight of share draft activities including a requirement for liquidity reserves with respect to share draft accounts.

At all stages during the share draft program, NCUA published instructions which established guidelines for both the approval and the operation of share draft programs. These are, of course, available for the record upon request. The growth and success of the program was remarkable when considering the dampening effects of the American Bankers Association/Tioga State Bank lawsuit contesting the legality of share drafts which was filed on September 7, 1976.

Providing impetus to the consideration of a withdrawal mechanism for CUs was the advent of the Federal Government's direct deposit of recurring payments program. In 1972, Congress enacted Public Law 92-366 to permit the directing of Federal recurring payments to financial institutions, including CUs, designated by individual payment recipients for credit to the individual's personal account. Upon enactment, the Department of Treasury and the Social Security Administration commenced implementation of the direct deposit program.

The purpose of the program is to improve service and provide greater security and convenience to government beneficiaries. Not only are there many CU members receiving retirement payments but in addition there are almost 900 CUs with over $9 billion in assets which serve civilian and military occupational groups.

It was soon recognized that there was an inherent weakness in the CU system: the lack of a convenient and practical mechanism for withdrawal of funds. In order to participate in the direct deposit program, i.e., to be designated by a payment beneficiary/credit union member, CUs had to provide a method whereby the recipient could effectively, conveniently, and practically make use of the funds deposited. Withdrawal by means of personal appearance, telephone or mail would not meet the needs of a CU member.

In addition to its responsibilities to CUs and CU members, the NCUA, as a Federal agency, has a responsibility to assist in the implementation of a program which benefits not only the public, but also the effectiveness of government operations. Authorization of share draft programs is consistent with the responsibilities of this Administration and, as we have determined, consistent with the powers contained in the FCU Act and available under common law.

After publishing our final share draft rule on November 30, 1977, the programs were moved from the experimental category on March 6, 1978. By year-end 1978, NCUA had approved 976 FCU share draft programs. Of this number, 740 are operational and over 792,000 FCU members have over $720 million in these accounts. During the last quarter of '78, 26.5 million share drafts were processed totalling almost $1.7 billion. Additionally there are approximately 800 state chartered CU's operating in 33 states with a total of 500,000 accounts.

LEGAL BASIS FOR SHARE DRAFTS

The major issue involved in the promulgation of the share draft regulation was whether FCUs can legally permit their members to make withdrawals of funds from a share account by means of a negotiable or nonnegotiable draft. While the legality of any new program is always at issue, it was a major issue in this instance because of the potential for litigation.

At the time the proposed rule was published, this Administration made the determination, which we believe continues to be valid, that share drafts were legal for FCUs. The following legal determinations were made:

(1) The use of share drafts is not inconsistent with the purposes of FCUs, including the express statutory purposes of promoting thrift and creating a source of credit;

(2) In the absence of an express prohibition, the common law authorizes any member of a CU to draw a draft on his share account with the CU;

(3) Neither the FCU Act, the legislative history of the FCU Act, nor the legislative history of Federal statutes governing other financial institutions demonstrate an intention on the part of Congress to prohibit the use by Federal credit unions of either share drafts or similar methods of withdrawal;

(4) The use of share drafts, as a method of withdrawal, is impliedly authorized under the FCU Act as an exercise of the express powers to receive withdrawable shares and make contracts;

(5) The operation of a share draft program is a proper exercise of incidental powers under the FCU Act; and

(6) Balancing the relevant policy considerations and considering

the Congressional mandate that the NCUA be responsive to the needs of FCUs, ambiguities, if any, must be resolved in favor of upholding a share draft program.

In addition to the operational difficulties the Court decision will have on share drafts and related programs, the possibility exists for even greater and potentially more serious adverse implications. It would appear that the Court has set in motion the possibility that the NCUA and the other financial Federal regulatory agencies must receive Congressional approval for evolutionary or technologically advanced procedures developed to implement express and implied powers but which were not specifically contemplated or in place at the time of enactment of the statute or any amendment thereto.

The regulation of financial institutions, particularly FCUs, most certainly will be unduly restricted. There is no question that the efficient and proper administration of FCUs will be undermined. In many instances, regulatory authorizations will be tied to standards and procedures that are obsolete. In our view, this conflicts with well established principles of law and, in-so-far as the NCUA is concerned, its congressionally mandated responsibility "to be more responsive to the needs of CUs and to provide more flexible and innovative regulations" (S. Rpt. 91-518).

NCUA has carefully exercised this authority in a controlled fashion using experimental programs wherever possible and has given due consideration to the fundamental purpose of CUs and the provisions of the FCU Act. Nevertheless, there can be no doubt that the Court's apparent construction of the NCUA's statutory authority will create unnecessary burdens not heretofore encountered.

While we are examining every remedy to this situation, Mr. Chairman, the legislative solution presented in H.R. 3864 is the one I believe should be most vigorously pursued. It will explicitly establish Congressional intent for all financial institutions on the issues of third party payment powers and payment of interest (or dividends) thereon and thereby prevent the possibility of a series of further court actions.

IMPACT ON CREDIT UNIONS OF SHUTDOWN ON SHARE DRAFT PROGRAM

The Court, in its decision, commented as follows regarding the potential effects of its ruling:

> "We recognize that enormous investments have been made by various financial institutions in the installation of new technologies, that methods of financial operation in the nation have rapidly grown to rely on much of this, and that disruption of the offered services would necessarily have a deleterious impact on the financial community as a whole, in the absence of the certainty that new procedures are authorized for the foreseeable future, which certainly only a Congressional enactment can give."

In attempting to portray for the Subcommittee the likely effects of no congressional action in response to the Court's action, we examined several areas. Our assessment of the situation led us to the conclusion that if remedial congresssional action is not completed by October 1, 1979, the tentative adjournment date, the NCUA will announce phase-out plans for all FCU share draft programs on that date. Additionally, it is very likely that we may have to consider a phase-out of certain credit union electronic funds transfer programs, such as Point of Sale or Pay by Phone, on that date.

The effects on CUs of a shutdown are in several categories. The first would be the economic impact on CU members who were forced to change from a share draft account in a CU to a demand deposit account in a bank.

A survey last year by I.C.U. Service Corporation, a business which provides share draft clearing services to over 1200 CUs (both Federal and state) indicates that the cost per share draft was approximately $.17 in 1977. The cost of the demand deposit operation in commercial banks, judging from the Federal Reserve's 1977 functional cost analysis results, appear to have been $.34 per check. While there may be some imprecision in the cost comparison, the magnitude of the difference clearly shows that share drafts are the lower cost method of handling household third party transactions. Closing down the share draft program means that the 2.1 million members of households with share draft accounts will be forced to use a system which, as can be seen, is considerably more expensive.

Not only will these consumers be forced to use a less efficient method, they will in addition suffer the loss of an estimated $21 million in dividends.

The second effect would be the adverse impact on the incomes of CUs. In analyzing the prospective adverse effects, NCUA is contacting CUs with share draft programs to inquire about their dependence on share draft revenue and membership gains. Though our contacts have been limited to date, quite a number of these CUs appear to be significantly dependent on revenues from share draft programs. One of our concerns is the safety and soundness effect of the loss of income from the shutdown of these programs.

Moreover, it appears that share draft programs are becoming an important reason for consumers to choose CUs. In addition to the income loss effects, we are concerned that substantial numbers of persons may actually terminate their membership. While CU membership is not a concern or a responsibility of ours as a regulator, a sudden drop in membership will be accompanied by a sudden outflow of funds. This latter effect is a concern and responsibility of this agency.

The third effect is the actual outflow of funds. Though we can not at this time say precisely how much money would flow out of CUs starting on October 1, it will probably not be less than $500 million. In the unlikely event that all members with these accounts withdrew not only their share draft balances but also their other share accounts, the outflow could be as high as $2.1 billion. We feel that a realistic estimate would range between $500 and $800 million. Such an outflow at the very least would result in a comparative decrease in availability of funds for consumer loans and could cause FCUs to have liquidity problems of an enormous magnitude. I would point out that these figures do not include any of the effects which may take place with respect to state chartered CUs.

Mr. Chairman, when we take into consideration the prospective resources of the Central Liquidity Facility, (CLF), the true nature of this situation is revealed. Though the Budget and Appropriations processes will not give us the exact capacity of the CLF until this September, we have the following information:

The Senate did not include the $500 million draw on Treasury in its version of the 1st Concurrent Budget Resolution; the Appropriations Subcommittees appear to be following the President's Budget regarding CLF borrowing authority which is $300 million; borrowings in excess of these will require supplemental appropriations; the CU stock subscription is estimated at $100 million. Therefore, the CLF could have a total capacity during FY 80 of between $400 million and $900 million.

I think it must be apparent why we have concern that the CLF could not be relied upon to support entirely an outflow of the maximum outlined in our potential estimate.

H.R. 3864

Your proposal, Mr. Chairman, would give all financial institutions including CUs the explicit power to offer demand deposits. Further, the institutions would either be given the explicit power to pay interest (dividends) on these accounts or the prohibition against paying such interest would be removed. Reserves against CU demand deposits would be set by the NCUA Board after consultation with the Federal Reserve.

This approach to the establishment of reserves on demand deposits is a good one. It addresses the concerns of the Federal Reserve regarding transaction accounts and monetary policy while enabling the regulators to consider the different types of financial institutions offering such accounts. Additionally, I would at this point endorse the placing of a considerable portion of credit union reserves in the CLF. From our perspective, this proposal is the best concept for addressing the reserve problem to date.

Mr. Chairman, NCUA supports this legislation and I feel that it would solve the dilemmas facing CUs caused by the recent court decision. Further, it will allow CUs to freely decide on offering this type of account without having to consider the possibility of future litigation.

I believe that the nine year New England experience with Negotiable Order of Withdrawal accounts, the five year CU share draft record and the EFT practices of all financial institutions have conclusively demonstrated that the consumer has benefitted from deregulation, innovation and an increase in competition. The NCUA strongly endorses the favorable reporting of this bill by the Subcommittee at the earliest time.

This concludes my statement. I will be glad to answer any questions the Subcommittee might have.

Help for the Small Saver

May 7, 1979

On May 7, 1979, Administrator Connell discussed a regulation on share accounts and share certificate accounts aimed at assisting the small saver in testimony before the House Subcommittee on Financial Institutions Supervision, Regulation and Insurance of the Committee on Banking, Finance and Urban Affairs.

****

Mr. Chairman
Members of the Subcommittee

It is a pleasure to be here today and present the views of the NCUA concerning the likely effects of our proposed regulation issued on April 3, 1979, which provides the opportunity for additional returns to CU savers and increases the flexibility of FCUs in offering accounts to their members.

In your letter inviting me to testify, you pointed out that our regulation was one of a number of proposals published for comment on the same date. As you know, the joint announcement of the individual proposals was made after both separate deliberation on the part of each regulator and after several meetings among the regulators.

The proposals reflect the efforts of each regulator to respond to the problems of the "small saver", to consider the different financial institutions regulated, and to understand the concerns of the other regulators. It is important to recognize that it was a joint announcement of individual proposals. For this reason, I am addressing the questions presented to me from the perspective of likely effects on CUs rather than from the cumulative effect of the joint announcement.

I think it is appropriate to emphasize one aspect of the proposed regulation regarding the small saver. The regulations do not cause financial institutions to begin paying higher rates to all savers; rather they actually remove the prohibition against paying such rates. It then becomes a decision on the part of the financial institutions themselves.

PROPOSED RULE

Essentially the NCUA has proposed a change to our share certificate regulation by raising the maximum permitted certificate rate to the higher rate of 8¼ percent *or* 1 percent below the yield on 5-year Treasury certificates. Thus, FCUs can offer either a rising rate certificate or a mini money market certificate. In addition, we have provided a new type of systematic savings plan which CUs may offer to their members. The following parameters to the plan are established within which the CU is free to tailor accounts best suited for its particular members:

1. Like other certificate type accounts, these accounts may earn dividends up to 8¼ percent or up to 1 percent below the yield on 5-year Treasury securities, whichever is greater.
2. The minimum amount on these accounts is to be established by the CU.
3. In order to open this systematic savings account, the CU member establishes in writing a regular savings plan for specific periodic additions to the account.
4. The term of these certificates is continued at not less than 90 days nor more than 6 years and is determined by the CU.
5. Additions to the account in accordance with the terms of the written savings plan will not extend the maturity of the certificate. Withdrawals may be made without penalty by providing a minimum of 90 days notice to the CU.
6. Exact terms and conditions will be disclosed to the member on opening the account.

By offering a systematic savings plan in the form of a notice certificate, CUs will not only encourage thrift among their members and reward the small account holders, but will also add a certain stability to the funds of the CU through the use of the notice requirement and because there is a penalty if notice is not given.

A CU member might have a savings certificate account as follows:

1. An initial deposit of $100 to meet the minimum for that CU.
2. A payroll deduction of $25 per month into this account for two years.
3. A dividend rate of 8 percent.
4. Withdrawals without penalty by giving 90 days notice (if this is the term established by the CU).

I would hope that this further refinement of the share certificate regulation would not only give the CU new latitude in certificates to meet any small saver concerns they might have, but also would address CU needs which are in part being met through the use of certificates of indebtedness.

For several years FCUs have also issued non-insured consumer savings instruments called certificates of indebtedness. Unlike the other financial regulatory agencies, NCUA did not attempt to regulate or limit these consumer debt instruments until Dec. 7, 1978. The regulations of the Board of Governors of the Federal Reserve System, the Federal Deposit Insurance Corporation and the Federal Home Loan Bank Board subject consumer promissory notes, their counterpart to certificates of indebtedness, to the same restrictions on rate and term as certificates of deposit. NCUA's proposed regulation would do the same with respect to certificates of indebtedness, which would in all respects be limited to the same degree as share certificates.

CREDIT UNION SAVINGS RATES

You will recall that in our testimony before the House Government Operations Consumer Affairs Subcommittee, I pointed out that ceilings on FCU share accounts had remained unchanged for a period of 29 years until it was raised from 6 percent to 7 percent in 1973 where it remains today. However, the disintermediation of 1973-1974 led to the passage of Public Law 95-22 and CUs were authorized by Congress to offer variable share accounts and share certificates. During the past year, NCUA has been implementing regulations to provide FCUs with a range of opportunities to offer certificates.

However, as Table 1 shows, though authorized to do so, only 15 percent of credit unions pay regular share account dividends as high as the 7 percent ceilings. Similarly, a recent survey indicates that only 25 percent of the large FCUs surveyed have share certificate programs paying rates as high as 7¾ percent. Lastly, about 38 percent of large FCUs offer money market certificates, though they have complete freedom to do so.

This phenomenon can be accounted for in part by the fact that: (1) the lower Regulation Q ceilings on other financial institutions have enabled CUs to attract funds at prevailing rates; (2) CUs, due to their cooperative structure, traditionally balance higher rates on savings against lower rates on loans, including interest refunds; (3) volunteerism is high among CUs and this with certain other subsidies keeps CU costs to a minimum; and (4) some CUs appear to be borrower oriented, choosing to offer credit at reasonable rates and thereby reducing the opportunity to pay the highest possible rate on savings.

In any event, since CUs are owned and operated by members, whatever balance is struck between borrower and saver benefits has generally been the result of the CU's own determination and not that of NCUA or any other Federal agency.

SMALL SAVER PROBLEM

The events leading up to the present situation appear to have accelerated when Federal authorities concentrated on slowing credit expansion in their efforts against inflation. The yield curve for government securities during 1978 and 1979 rose significantly and shifted in such a way that short-term rates were frequently above long-term rates.

To prevent a precipitous liquidity crunch of the sort that suddenly curtailed home building in previous tight money periods, bank and savings and loan association regulatory authorities created and authorized a $10,000 denomination, floating rate certificate of deposit based on the 6-month Treasury bill rate. This new financial instrument, the money market certificate, was designed to slow or halt the flow of large accounts into bank negotiable certificates of deposit and Treasury bills. While the money market certificate solved some of the problems associated with tight money and disintermediation, it created a few of its own for CUs and was obviously not available for small savers.

The rate of disintermediation in past tight money periods was mitigated somewhat by a substantially lower number of large accounts, general unfamiliarity with just how to go about purchasing Treasury bills, and a less than full awareness of the opportunity cost imposed on savers by Regulation Q. The availability of a Treasury bill-like instrument from commercial banks and savings and loan associations in advertisements touting the benefits of the new instrument increased public awareness and facilitated the shift of funds out of regular savings and time deposits.

NCUA authorized money market certificates for CUs in November in response to the significantly lower rate of growth of CU savings in Oct. 1978 caused by savings outflows to these instruments. NCUA's action was an effort to slow or stop the outflow of funds from CUs.

In many respects, the saver inequity problem is the result of efforts to halt the flow of large denomination accounts and reduce the instability caused by rapid shifts from institution to institution of these rate sensitive large accounts. The inevitable effect, coupled with the general rising public awareness of interest rate differentials, has been pressure to offer small account savers the same rate advantages available to large account holders which you pointed out in your letter. The trend of interest rate sensitivity is irreversible and will result in the shifting of ever smaller accounts to those institutions offering the highest return on savings.

In this regard, I would point out that even U.S. Savings Bond holders are susceptible to this trend with redemptions exceeding purchases last year. I believe the evidence is clearer every day that the present structure of Regulation Q can no longer insulate thrift institutions from competition from other savings alternatives. The growth of money market mutuals, 276 percent in 1978 and 66 percent in the first three months of 1979, as well as the continuous emergence of innovations such as the First Pennsylvania Bank's small saver repurchase transactions are a few of many alternatives available to the saver.

My responsibility as a regulator is to assure that CUs are afforded a full opportunity to satisfy the purposes for which they were created. As stated in the FCU Act, the purpose of a CU is to promote thrift among its members and to create a source of credit for provident and productive purposes.

To do this, CUs must be able to structure their operations to meet the needs of borrowing *and* savings members. This need for flexibility is an obstacle to NCUA completely following the example of other Federal agencies in regulating the specific terms and conditions of savings instruments. Instead, we have followed the approach of setting outside limits on rates, denominations, and maturities, within which CUs can operate in a safe and sound manner to meet the needs of their membership.

RESPONSE TO NCUA PROPOSAL

The NCUA proposal was published for comment on April 3, 1979, and the comment period ended this past Friday, May 4. I mailed a copy of our proposal to the Gray Panthers on April 3, but I have not received any written comments as of yet. However, during the Senate hearings on this subject, Senator Proxmire did ask their representatives if they had any comment on the various proposals. My best recollection is that the regulations were considered "a good first step," but that additional effort would be necessary.

As of last Thursday, we had received 28 written responses to the proposal. A brief summary is as follows:

There were 26 comments from FCUs and two comments from trade associations. Fifteen CUs supported the proposal though some expressed concern about costs and operating procedures. The two major CU trade associations supported the proposals with recommendations for further refinements. One CU sent in five letters in opposition citing the cost of funds and the pressure of the 12 percent ceiling on loans. Five other CUs also cited costs, inflation and the 12 percent ceiling as major objections to the proposal. One CU requested an extension to the comment period.

The NCUA will carefully consider each of these comments and those of this Subcommittee prior to reaching a final determination on this matter. However, from experience for the past several years it is quite clear that a rate structure limiting CU dividends cannot be effective if it is significantly below general market rates. Credit unions enjoyed an exceptional growth rate of approximately 20 percent per year from 1970 to 1978, largely because they could pay higher dividends on regular savings accounts than savings and loan associations and banks. In 1978 when they found themselves competing head-on for money market certificate savings, the growth rate came to an abrupt halt. The projected growth rate for 1979 is 4.6 percent.

During late 1978 when CUs by regulation could not issue money market certificates they began issuing the non-regulated certificates of indebtedness which reached an all time high of $1.546 billion in December of 1978. **(See Table 2.)** Once NCUA permitted FCUs to offer money market share certificates, there was an immediate shift from the non-regulated non-insured certificate of indebtedness into the insured money market share certificate.

We believe the same general pattern should apply to small denomination certificate accounts. Our surveys indicate that many CUs are issuing certificates of indebtedness to members in denominations of less than $10,000. NCUA's present share certificate regulation which has an upper rate limitation of 7¾ percent is not realistic in today's marketplace.

Federal credit unions have employed the certificate of indebtedness as a safety valve to a share certificate rate limitation that was below market. Before NCUA can limit the certificate of indebtedness instruments, it must have a share certificate regulation that is consistent with market rates.

SUBCOMMITTEE QUESTIONS

Mr. Chairman, the ten questions in your letter of May 1 focus on the basic problems that the financial regulatory agencies have been struggling with for the past few years in attempting to adjust Regulation Q to a rapidly changing market environment. Those problems involve how to structure an adjustment mechanism for thrift institutions that currently have long-term mortgage loan portfolios, and how to deal with state and Federal regulations that do not permit the development of flexibility in mortgage portfolios to meet rapidly changing money market conditions.

I believe that we have arrived at a point where these issues must be addressed in a comprehensive fashion because they are interrelated.

(1) Savings rates must be permitted to vary with market conditions because otherwise money will eventually flow to other savings alternatives.

(2) With respect to thrift institutions holding below market mortgage portfolios, the Federal lending agencies must be ready to provide credit to them during a transition period at a rate sufficient for them to liquidate their older loans in an orderly fashion.

(3) Such credit must be coupled with a strong supervisory policy inducing thrift institutions to make mortgage loans that are eligible for sale in the secondary market. Use of secondary mortgage market vehicles would enhance thrift liquidity and ability to adjust quickly to changing financial conditions.

(4) State usury laws that inhibit thrift institutions from making mortgage loans that can be sold in the secondary market should be overriden by Federal law and Federal usury law must be consistent with money market rates.

(5) Thrift institutions should also be granted broader operating powers including personal loans, Negotiable Order of Withdrawal accounts and variable rate mortgages.

A piecemeal approach to these issues will only result in disruption and dislocation of a market that is already behaving in a volatile fashion because of an out of date regulatory structure.

Because FCUs were not allowed to offer 30-year home mortgages until April 1978, mortgage lending amounts to only 6 percent of total FCU assets. We are currently compiling data from FCU yearend financial reports and will be able to respond more fully to the mortgage related questions in your May 1 letter at a later date.

Concerning fees and points, they are included in the Federal Truth in Lending annual percentage rate calculations, as well as the FCU Act usury limitation. If a borrower repays a mortgage sufficiently early so that the points would cause the interest rate to be greater than one percent per month, any fees or points above that limit must be refunded to the borrower.

We do not have any data on account conversion costs. However, we do not believe they would constitute a significant cost factor for FCUs because the flexibility in our proposed regulation does not require FCUs to offer rising rate certificates as their only small account saving instrument. Federal credit unions will be able to structure any type of account they feel that members would want according to their particular cost benefit calculations. Because FCUs can pay up to 7 percent on regular savings accounts, they can pay a competitive yearend bonus without having to determine whether the funds have been on deposit for a full year.

As our supporting data in Table 3 indicate, a substantial portion of CU share accounts are held by the "small saver." Evidence of the use of smaller denomination certificates of indebtedness underlines the value for that type of saver of a more flexible rate structure for share certificates or certificates of deposit. As I stated earlier, the saver and equity problem is the result of efforts to halt the flow of large denomination accounts and reduce the instability caused by rapid shifts from institution to institution of these rate sensitive large accounts.

Credit unions have many small savers, who often become not-so-small borrowers. Because higher dividend rates force up the borrowing cost at CUs, it is unclear that the individual of limited means is better off when CUs take such action. Again, it is up to the members of the individual CU, operating through their elected board of directors, to determine the relative merits of changes in their dividend and lending policies.

Rising mortgage rates are generally cited first as the adverse consumer effect of accounts which pay higher rate for small savers. It should be kept in mind, however, that the analysis indicating higher rates on mortgages and other kinds of loans does not take into consideration a possible increase in the supply of funds. It may be, that by paying somewhat higher rates on savings accounts, the trend toward saving in non-financial forms—for example, residential equity—would be abated.

Perhaps, the demand for loans to buy real goods which function as non-financial savings vehicles would decline, and the supply of savings to financial institutions would increase. Regulation Q tends to discourage people from using financial institutions as their savings vehicle and diminishes the supply of funds to financial institutions. Tax benefits from home ownership, in an inflationary environment, tend to increase the demand for mortgage funds. The supply of savings and the demand for mortgage funds are probably significantly different from what they would be if consumers could obtain a market determined rate of return on their savings.

The immediate effects of higher loan rates as a result of higher savings rates may be a temporary consumer adverse effect. After some period of adjustment, the benefits to consumers derived from freely allocated savings and loanable funds may become available. Before precluding this possibility on the basis of apparent short-run adverse effects, I urge the Subcommittee to take the long view in assessing the overall cost and benefits from relaxing Regulation Q constraints.

I have asked my own staff to look into these longer run possibilities and as their work becomes available and merits your attention, I will make it available to the Subcommittee.

Because NCUA's "Small Saver" regulation essentially broadens CU ability to meet member savings needs, our economic impact analysis consisted primarily of the adverse effects of what would happen if we took no action. In essence, we are leaving to CUs the decision of how to expand their share certificate programs to benefit the older and lower income members. As I noted earlier, it is up to the members of individual CUs to determine the relative merits of changes in their dividend and lending policy.

With respect to the specific income categories specified in your letter, we are attempting now to meet the Subcommittee's information request. I have asked my staff to discuss with the staff of the Subcommittee the degree to which we are able to conduct the kind of analysis requested.

Analysis conducted assuming a Regulation Q free environment is very difficult. In addition to the obvious uncertainty of what market rates would be without Regulation Q, there is the additional problem of the fact that in many respects our small saver account proposals are part of the process of relaxing Regulation Q. Despite these analytical obstacles, we will do our best and make what analysis we derive available to this Subcommittee as soon as it is completed.

COURT DECISION

I agree with your assessment, Mr. Chairman, that the recent Court of Appeals decision could have serious repercussions on the ability of those institutions so affected to serve both borrowers and depositors fairly.

At the present time there are 976 FCUs which have received approval from the NCUA to offer share drafts to their members. Of this number, 740 are operational and over 792,000 CU members are enjoying the benefits of a share draft account. The aggregate amount of these accounts is over $720 million while the average size of each account is $900. During the last quarter of 1978, 26.5 million share drafts were processed totalling almost $1.7 billion. Additionally, there are approximately 800 state chartered CUs operating in 33 states with a total of 500,000 accounts.

Our assessment of the situation leads us to the conclusion that if remedial congressional action is not completed by Oct. 1, 1979, the tentative adjournment date, the NCUA will be forced to announce phase-out plans for all FCU share draft activities on that date.

While it is difficult to assess the cost to CUs of such a phase-out, there will be a substantial economic impact on those CUs forced to shut down share draft programs. This cost will be borne by each of the member/owners. As an additional matter, the decision raised serious questions concerning the use of certain related services, such as EFT, by FCUs which are being studied further at this time. This Subcommittee can be assured that as soon as additional cost data are available, it will be immediately provided.

I note with pleasure the prompt action of the Chairman in introducing H.R. 3864, a bill to remove the prohibition on the payment of interest on demand deposits and to permit federally insured CUs to receive demand deposits. We support this initiative and look forward to testifying before you next week. I know that the Chairman and Subcommittee members share my concern that a service with such obvious consumer benefits as the share draft program not be terminated due to our inability to resolve the financial reform issues.

Mr. Chairman, this concludes my prepared statement. I will be glad to answer any questions you might have.

Table 1

Dividends Paid on Regular Share Accounts by Federal Credit Unions, Selected Yearends, 1972 to 1977

	Number of credit unions paying as of Dec. 31,			
Dividend rate category (%)	1977	1974	1973	1972
Total	12,750	12,748	12,688	12,708
None	762	903	881	1,117
0.1 to 3.99	236	315	386	530
4 to 4.99	443	763	1,048	1,638
5 to 5.99	3,182	4,449	5,589	6,572
6	3,979	3,693	3,496	2,851
6.01 to 6.99	2,212	1,385	689	——
7	1,936	1,240	599	——
	Percent distribution			
Total	100.0	100.0	100.0	100.0
None	6.0	6.7	6.9	8.8
0.1 to 3.99	1.9	2.6	3.0	4.2
4 to 4.99	3.5	5.6	8.3	12.9
5 to 5.99	25.0	33.3	44.0	51.7
6	31.2	29.5	27.6	22.4
6.01 to 6.99	17.3	12.4	5.4	——
7	15.2	9.9	4.7	——

Note: On September 13, 1973, the Administrator of NCUA increased the maximum dividend rate payable on regular shares in Federal credit unions from 6 to 7 percent.

Table 2

Selected Data Pertaining to Credit Union Total Savings, Six-Month Money Market Certificates (MMCs) and Certificates of Indebtedness (CIs), Monthly, 1978 and 1979
[Amounts in millions]

Item	1978			1979		
	Oct.	Nov.	Dec.	Jan.	Feb.	Mar.[1]
Total savings, end of month (S.A.)	$52,586	$52,892	$53,398	$52,456	$52,869	$53,477
Net change during month:						
Amount	$131	$306	$506	$-942	$413	$608
Percent	0.2	0.6	1.0	–1.8	0.8	1.2
CI balance, end of month (N.S.A.)	$1,505	$1,525	$1,546	$1,526	$1,495	$1.357
Percent of total savings	2.9	2.9	2.9	2.9	2.8	2.5
Net change during month:						
Amount	$65	$20	$21	$-20	$-31	–$138
Percent	4.5	1.3	1.4	–1.3	–2.0	–9.2
Credit union MMCs, end of month (N.S.A)	——	([2])	$330	$600	$950	$1,278
Percent of total savings	——	——	0.6	1.1	1.8	2.4
Net change during month:						
Amount	——	——	$330	$270	$350	$328
Percent	——	——	——	81.8	58.3	34.5
Percent of Large CUs offering MMCs[3]	——	——	25.0	34.7	37.7	38.7
Total CIs and MMCs, end of month (N.S.A.)	$1,505	$1,525	$1,876	$2,126	$2,445	$2,635
Percent of total savings	2.9	2.9	3.5	4.1	4.6	4.9
Net change during month:						
Amount	$65	$20	$351	$250	$319	$190
Percent	4.5	1.3	23.0	13.3	15.0	9.2

[1] Preliminary.

[2] Authority to offer savings instruments similar to MMCs granted Federal credit unions on November 20, 1978.

[3] Percent of credit unions offering MMCs based on small sample of Federal credit unions with assets $5 million or more.

Table 3

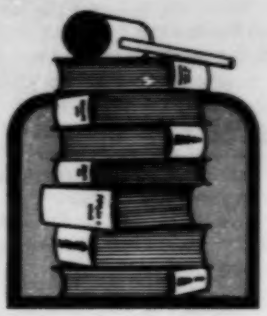
Average Size Savings Account at Credit Unions and Savings and Loan Associations, 1975-78

Year	Credit Unions	S&Ls	
		Total savings	Passbook accounts
1978	$1,341	$4,944	N/A
1977	$1,290	$4,755	$4,334
1976	$1,188	$4,442	$4,118
1975	$1,093	$4,108	$3,888

Source: National Credit Union Administration and Federal Home Loan Bank Board.

Number and amount of share accounts in Federal credit unions, by size of account, December 31, 1977

Size of share accounts	Share accounts as of Dec. 31, 1977					Increase during 1977	
				Percentage distribution			
	Number of accounts	Amount of shares (in thousands)	Average per account	Number of accounts	Amount of shares	Amount of shares (in thousands)	Percent
Total	20,426,661	$25,576,017	$ 1,252	100.0	100.0	$4,445,724	21.0
Less than $1,000	15,550,400	2,810,052	181	76.1	11.0	291,473	11.6
$1,000.01 to $2,000.00	1,672,865	2,366,252	1,416	8.2	9.3	226,806	10.5
$2,000.01 to $5,000.00	1,960,562	5,942,311	3,031	9.6	23.2	599,904	11.2
$5,000.01 to $10,000.00	739,729	5,147,336	6,958	3.6	20.1	789,286	18.4
$10,000.01 to $20,000.00	361,038	4,968,939	13,763	1.8	19.4	1,071,984	27.5
$20,000.01 or more	142,277	4,341,111	30,512	.7	17.0	1,467,177	50.6



Interpretive Rulings and Policy Statements

Credit Union Service Corporation **April 9, 1979**

TITLE 12–BANKS AND BANKING

CHAPTER VII–NATIONAL CREDIT UNION ADMINISTRATION

PART 701–ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

CREDIT UNION SERVICE CORPORATION

AGENCY: National Credit Union Administration

ACTION: Statement of Policy

SUMMARY: The purpose of this action is to restate the policy of the National Credit Union Administration concerning the relationship between credit union service corporations established pursuant to 12 C.F.R. 701.27-2, published on March 7, 1979 (44 FR 12401) and effective April 9, 1979 and existing accounting service centers approved either under the version of 12 C.F.R. 701.27-2 that existed prior to the promulgation of the new 12 C.F.R. 701.27-2 published on March 7, 1979, or other service corporations approved pursuant to Section 107(7)(I) of the Federal Credit Union Act (12 U.S.C. §1757(I) upon which the new version of 12 C.F.R. 701.27-2 was based.

EFFECTIVE DATE: April 9, 1979

ADDRESS: National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456

FOR FURTHER INFORMATION CONTACT: Todd A. Okun, Senior Attorney, Office of General Counsel, at the above address. Telephone: (202) 632-4870

SUPPLEMENTAL INFORMATION

On November 3, 1978, the Administration published a proposed rule (43 FR 51407) to implement the provisions of the April 19, 1977, amendments to the Act (Pub. L. 95-22, Stat. 49) which authorize Federal credit unions to invest in, to make loans to, or to extend lines of credit to, organizations providing services associated with the routine operation of credit unions. The proposed rule was to amend existing 12 C.F.R. 701.27-2, Participation in Accounting Service Center. Public comment was invited, to be received on or before January 2, 1979. The preamble to the proposed rule stated National Credit Union Administration policy regarding existing corporations under the heading *Existing Service Corporation Desiring To Be Approved As A Credit Union Service Corporation*. However, when the final rule was published on March 7, 1979, effective April 9, 1979, this policy was inadvertantly omitted.

In order to avoid any misunderstanding as to application requirements for existing service corporations, the following states the policy of the National Credit Union Administration.

It is noted that publication of this statement marks the beginning of procedures whereby the National Credit Union Administration will publish interpretive rulings and policy statements in the Federal Register. For further information regarding these procedures, contact Robert S. Monheit, Senior Attorney, Telephone: (202) 632-4870.

INTERPRETIVE RULINGS AND POLICY STATEMENTS, NO. 79-1

STATEMENT OF POLICY REGARDING EXISTING SERVICE CORPORATIONS THAT DESIRE TO BE APPROVED AS CREDIT UNION SERVICE CORPORATIONS

The final rule, effective April 9, 1979, will replace the existing Section 701.27-2 of the National Credit Union Administration Rules and Regulations. Therefore, all existing accounting service centers operating under the prior provisions of 701.27-2 must apply for approval as a credit union service corporation. The Administration feels that a period of 1 year is sufficient time to effect the changes required and to process the applications of the existing accounting service centers.

The final rule will also replace and amend any previously approved "leeway" organizations approved by the Administration. These corporations will also be required to apply to the Administration under the provisions of the final rule and comply within a 1 year time period from its effective date.

It is expected that certain service corporations owned and operated exclusively by state chartered credit unions *may* desire to service and receive investments from Federal credit unions. If so, these organizations will also need to file applications with the Administration for consideration and must modify their operations to comply with the final rule.

Therefore, it is the policy of the National Credit Union Administration to forego taking any action against existing accounting service centers approved pursuant to the 12 C.F.R. 701.27-2 in force prior to April 9, 1979, or against existing "leeway" organizations approved pursuant to 12 U.S.C. §1757(7)(I) prior to April 19, 1979, because of their failure to apply for approval as credit union service corporations, for a period of one year from the effective date of the Credit Union Service Corporation regulation (April 9, 1979).

LAWRENCE CONNELL
Administrator

REGULATIONS
NOTICES
REPORTS

Regulations, Notices and Reports

Semi-Annual Agenda of Regulations June 27, 1979

NATIONAL CREDIT UNION ADMINISTRATION

Executive Order No. 12044: Improving Government Regulations

Semi-Annual Agenda of Regulations

AGENCY: National Credit Union Administration

ACTION: Publication of Semi-Annual Agenda of Regulations

SUMMARY: Pursuant to Executive Order No. 12044: Improving Government Regulations, NCUA is publishing a list of regulations under consideration by NCUA as of June 30, 1979

DATE: Effective June 30, 1979

ADDRESS: National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: (a) On the Executive Order or the Agenda, Robert Monheit, Senior Attorney/Regulatory Development Coordinator, Office of General Counsel, National Credit Union Administration at the above address. Telephone: (202) 632-4870. (b) On a particular regulation, contact the person named in the listing for that regulation, at the above address.

SUPPLEMENTARY INFORMATION

On March 23, 1978, Executive Order No. 12044 was issued, directing each executive agency to publish a report on procedures to improve government regulations. The Executive Order also directed each agency to publish, twice a year, a list of significant regulations being considered, along with a description of the regulation, its need and legal basis, its status, the name and telephone number of an agency official familiar with the regulation and whether a regulatory analysis is required for that regulation. On May 31, 1978, NCUA published its draft report for public comment (43 FR 23688); on October 2, 1978 NCUA published an announcement (43 FR xiii) stating that the Semi-Annual Agenda would be published on December 15, 1978 and June 30, 1979. NCUA's final report was published on March 23, 1979 (44 FR 17954). As to many of these regulations, development has, prior to implementation of the Executive Order, proceeded beyond the stage at which a regulatory analysis would be required.

AGENDA

1. a. §701.27-2, Credit Union Service Corporation, authorizing Federal credit unions to invest in, to make loans to, or to extend lines of credit to, organizations providing services associated with the routine operations of credit unions.

b. Need: To implement the provisions of P.L. 95-22 in accordance with the specific guidance provided in the Report of the Committee on Banking, Finance, and Urban Affairs, House of Representatives, (H.R. Rep. No. 95-23).

Legal Basis: 12 U.S.C. §§1757(5)(D), 1757(7)(I), 1766, and 1789.

c. Status: Final regulation issued March 7, 1979 (44 FR 12401), effective April 9, 1979.

d. For Further Information Contact: Either Layne L. Bumgardner, Office of Examination and Insurance, telephone: (202) 254-8760, or Todd A. Okun, Office of General Counsel, telephone: (202) 632-4870.

2. a. §703.3, Investment Activities of Federal Credit Unions, restricting involvement in investment activities that are unauthorized or otherwise unsafe or unsound.

b. Need: To curb abuses, and resulting substantial losses, arising from certain speculative investment transactions, and to clarify the permissible range of authorized investment transactions.

Legal basis: 12 U.S.C. §§1757, 1766, and 1789.

c. Status: Final regulation has been drafted.

d. For Further Information Contact: Robert F. Schafer, Office of Examination and Insurance, telephone: (202) 254-8760.

3. a. §701.38, Borrowed Funds from Natural Persons, restricting Federal credit union borrowing from natural persons to the credit union's members, and limiting the interest rate and maturity.

b. Need: To ensure that Certificates of Indebtedness are not used to circumvent the rate controls for shares and share certificates, and to ensure that investment services offered to natural persons by Federal credit unions are limited to the credit union's members.

c. Status: Final regulation issued June 6, 1979 (44 FR 32358), effective July 5, 1979.

d. For Further Information Contact. Mike Fischer, Chief Accountant, Office of Examination and Insurance, telephone: (202) 254-8760, or James L. Skiles, Deputy General Counsel, Office of General Counsel, telephone: (202) 632-4870.

4. a. §701.21-8, Purchase, Sale, and Pledge of Eligible Obligations, governs and defines the permissible scope of a Federal credit union's authority to purchase, sell, or pledge credit union members' obligations.

b. Need: To implement P.L. 95-22, and to provide Federal credit unions with greater flexibility in meeting liquidity needs, in meeting member demands, and in spreading the risk of those demands.

Legal Basis: 12 U.S.C. §§1757(13), 1757(14), 1766 and 1789.

c. Status: Final regulation issued May 9, 1979 (44 FR 27068), effective May 9, 1979.

d. For Further Information Contact: Either Stephen Raver, Director, Division of Examination, Office of Examination and Insurance, telephone: (202) 254-8760, or John L. Culhane, Jr., Attorney-Advisor, Office of General Counsel, telephone (202) 632-4870.

5. a. §701.31, Nondiscrimination Requirements, anti-"redlining" regulation prohibiting the sole consideration of the age or location of a dwelling, and the consideration of the race, color, religion, sex, or national origin of persons living in the vicinity, when a Federal credit union decides on granting a mortgage loan.

b. Need: To prevent the discriminatory practice of "redlining."

Legal Basis: 12 U.S.C. § §1757(5)(A)(i), 1766, and 1789.

c. Status: Proposed regulation issued January 18, 1979 (44 FR 3722); comment period closed Feb. 28, 1979. Final regulation has been drafted.

d. For Further Information Contact: Edward J. Dobranski, Senior Attorney, Office of General Counsel, telephone: (202) 632-4870.

6. a. §701.37, Treasury Tax and Loan Accounts, to permit Federal credit unions to participate as depositaries for funds representing payments for certain U.S. obligations and payments of Federal taxes.

b. Need: To implement P.L. 95-147 and to accommodate the requirements of the regulations of the Department of the Treasury, 31 CFR Part 203.

Legal Basis: P.L. 95-147; 12 U.S.C. § §1766, 1767, and 1789.

c. Status: Final regulation issued Jan. 24, 1979 (44 FR 4938), effective Jan. 24, 1979.

d. For Further Information Contact: Mike Fischer, Chief Accountant, Office of Examination and Insurance, telephone: (202) 254-8760.

7. a. § §701.21-2(a) and 701.21-3(b)(2), to permit payment on loans at intervals greater than one month and less than 12 months.

b. Need: To permit credit unions to establish repayment periods which coincide with the receipt of income by those members whose income is necessarily irregular.

Legal Basis: (1) Petition for rulemaking pursuant to 5 U.S.C. §553(e) submitted by Credit Union National Association, Inc.; (2) P.L. 95-22.

c. Status: Final regulation issued June 6, 1979 (44 FR 32357), effective July 1, 1979.

d. For Further Information Contact: Layne L. Bumgardner, Office of Examination and Insurance, telephone: (202) 254-8760.

8. a. Part 747, procedures for imposing civil penalties for violations of cease and desist orders.

b. Need and Legal Basis: Title I, P.L. 95-630.

c. Status: Proposed regulation drafted.

d. For Further Information Contact: Jay Keithley, Attorney-Advisor, Office of General Counsel, telephone: (202) 632-4870.

9. a. Management Interlocks, to regulate the practice of management officials of credit unions serving as management officials of other depository institutions.

b. Need and Legal Basis: "Depository Institutions Management Interlocks Act," Title II, P.L. 95-630.

c. Status: Proposed regulation issued Feb. 1 1979 (44 FR 6421), comment period closed March 5, 1979. Final regulation has been drafted.

d. For Further Information Contact: Ross P. Kendall, Attorney-Advisor, Office of General Counsel, telephone: (202) 632-4870.

10.a. NCUA Restructuring, to revise NCUA's internal procedures and NCUA regulations in light of the creation of a three person Board to manage the agency.

b. Need and Legal Basis: Title V, P.L. 95-630, and 5 U.S.C. 552b.

c. Status: Proposed regulations under development.

d. For Further Information Contact: J. Leonard Skiles, Deputy General Counsel, Office of General Counsel, telephone: (202) 632-4870.

11.a. National Credit Union Central Liquidity Facility, to govern membership in, access to, and the internal procedures of the Central Liquidity Facility.

b. Need and Legal Basis: Title XVIII, P.L. 95-630.

c. Status: Proposed regulation issued May 4, 1979 (44 FR 26115), comment period closed June 18, 1979.

d. For Further Information Contact: Mike Fischer, Chief Accountant, Office of Examination and Insurance, and Layne L. Bumgardner, Chief, Credit Union Operations, Office of Examination and Insurance, telephone: (202) 254-8760; Mark S. Medvin, Attorney-Advisor, Office of General Counsel, telephone: (202) 632-4870.

e. Regulatory Analysis has been prepared.

12.a. §701.6, Fees Paid by Federal Credit Unions, to establish a single operating fee in place of separate chartering, supervision, and examination fees.

b. Need: To generate income sufficient to affect anticipated expenditures of the Administration; to reduce some of the inequities of the current fee structure; and to simplify the means of assessment and thereby reduce paperwork requirements.

Legal Basis: P.L. 95-630; 12 U.S.C. §1755.

c. Status: Final Regulation issued May 10, 1979 (44 FR 27379), effective June 15, 1979.

d. For Further Information Contact: John R. Sander, Budget Officer, Office of the Comptroller, telephone: (202) 633-6737.

13.a. §701.24, Refund of Interest, to permit Federal credit unions to vary interest refunds according to different classes of loans.

b. Need: To permit greater flexibility for credit union management, and to reduce inequities, in light of the new lending powers granted by P.L. 95-22.

Legal Basis: P.L. 95-22, 12 U.S.C. §1761b.

c. Status: Final Regulation issued January 30, 1979 (44 FR 5870), effective January 30, 1979.

d. For Further Information Contact: Robert M. Fenner, Assistant General Counsel, Office of General Counsel, telephone: (202) 632-4870.

14.a. §701.35 Share Accounts and Share Certificate Accounts, to authorize Federal credit unions to issue different types of accounts at varying rates and maturities.

b. Need: To increase credit union management's flexibility in tailoring an account structure suitable to the needs of the credit union and its members; to permit small savers to have a greater opportunity to receive a higher return on their savings; to revise the minimum penalty provisions; and to simplify and clarify the previous regulations on this subject.

Legal Basis: 12 U.S.C. § §1766 and 1789.

c. Status: Final regulation issued June 5, 1979 (44 FR 32202), effective July 1, 1979.

d. For Further Information Contact: J. Leonard Skiles, Deputy General Counsel, Office of General Counsel, telephone: (202) 632-4870.

15.a. §740.3, Mandatory Requirements with Regard to the Official Sign and Its Display, and §745.13 Notification of Depositors/Shareholders, to except automated teller machines (ATM's) and point of sale (POS) terminals from the "Advertisement of Insured Status" requirements.

b. Need: To reduce regulatory requirements and to prevent confusion in situations where several financial institutions insured by different Federal and/or State agencies share the same ATMs or POS terminals.

Legal Basis: 12 U.S.C. §1766 and 1789.

c. Status: Proposed regulation issued March 14, 1979 (44 FR 15512); comment period closed May 7, 1979.

d. For Further Information Contact: Layne L. Bumgardner, Chief, Credit Union Operations, Office of Examination and Insurance, telephone: (202) 254-8760.

16.a. Debt Collection Practices, to impose uniform and comprehensive restrictions on collection of debts.

b. Need: To protect credit union members from abusive debt collection practices; to provide credit union management with guidance as to permissible debt collection practices.

c. Status: Advance Notice of Proposed Rulemaking issued April 5, 1979 (44 FR 20447), to determine the need for a regulation and to provide an early opportunity for public participation. Comment period extended (44 FR 32230) to June 30, 1979.

d. For Further Information Contact: Joseph F. Myers, Consumer Affairs Specialist, Division of Consumer Affairs, Office of Examination and Insurance, telephone: (202) 254-8760; John L. Culhane, Jr., Attorney-Advisor, Office of General Counsel, telephone: (202) 632-4870.

17.a. Part 742, Liquidity Reserves of Insured Credit Unions, to require federally insured credit unions to maintain liquid asset holdings in amounts not less than 5% of total member accounts and notes payable.

b. Need: To ensure that federally insured credit unions can meet significant and, perhaps, unexpected outflows of funds without liquidating valuable investment and loan assets; to provide protection against untimely sale of valuable assets possibly leading to insolvency and credit union failures.

Legal Basis: 12 U.S.C. § §1762(b), 1766(a), and 1781(b)(6).

c. Status: Proposed regulation issued June 8, 1979 (44 FR 33094); comment period closes July 25, 1979.

d. For Further Information Contact: Robert H. Dugger, Acting Director, Office of Policy Analysis, telephone: (202) 633-6775; Robert M. Fenner, Assistant General Counsel, Office of General Counsel, telephone: (202) 632-4870.

e. Regulatory analysis has been drafted.

18.a. §701.2, 701.14, and 701.15 Incorporation by Reference, listing and description of NCUA manuals having the force and effect of regulations.

b. Need: To give important technical requirements the force and effect of law.

Legal Basis: 5 U.S.C. §552(a)(1).

c. Status: Recommendations submitted to the Chairman for eliminating certain publications from the list of those incorporated by reference, and thereby changing their status to guidelines. Staff preparing draft of public notice and amendment of the regulation.

d. For Further Information Contact: Robert S. Monheit, Senior Attorney, Office of General Counsel, telephone: (202) 632-4870.

19.a. §701.21-6A Agency Relationship with Approved Mortgage Lender, to permit Federal credit unions to act as agents for approved mortgage lenders.

b. Need: To provide mortgage loans to members of those Federal credit unions that are unable to otherwise provide such loans.

Legal Basis: 12 U.S.C. §1757(5)(A) and (15); 12 U.S.C. §1766.

c. Status: Preliminary review approved by Chairman June 6, 1979; draft provisions being reviewed by staff.

d. For Further Information Contact: Robert M. Fenner, Assistant General Counsel or John L. Culhane, Jr., Attorney-Advisor, Office of General Counsel, telephone: (202) 632-4870.

REVIEW OF REGULATIONS

The following is a list of regulations to be reviewed in the future. The purpose of the review will be to update, clarify, and simplify existing regulations, and to eliminate redundant and unnecessary provisions. These regulations are divided into two groups. The first grouping (A) contains those regulations in which substantial progress has been made (since the last publication of the Agenda) and includes a statement concerning the status of the review. The second grouping (B) contains those regulations yet to be reviewed.

A. Regulations Reviewed.

1. a. § §701.2, 701.14, and 701.15, Incorporation by Reference, review to determine whether the manuals listed should have the force and effect of law.

b. Status: Recommendations submitted to Chairman. See: Regulations Under Development, No. 18 (above).

c. For Further Information Contact: Robert S. Monheit, Senior Attorney, Office of General Counsel, telephone: (202) 632-4870.

2. a.§ §701.6, 701.7, and 701.8, Fees for Supervision and for Examination of Federal Credit Unions, and for Examination of Federal Credit Unions in Liquidation, review to replace the present fee system with an operating fee.

b. Status: Final Regulation issued, See: Regulations Under Development, No. 12 (above).

c. For Further Information Contact: John R. Sander, Office of the Comptroller, telephone: (202) 254-9825.

3. a. § §701.16 and 701.17, Statements of Policy, List of Federal Credit Unions, review to consolidate these regulations with the regulation on availability of information, Part 720, subpart B of NCUA's Rules and Regulations.

b. Status: NCUA Instruction on interpretations and policy statements issued; first Interpretive Ruling and Policy Statement (IRPS 79-1), published April 12, 1979 (44 FR 21762).

c. For Further Inormation Contact: Robert S. Monheit, Senior Attorney, Office of General Counsel, telephone: (202) 632-4870.

4. a. § §701.24, Refund of Interest, review of question of uniform percentage.

b. Status: Final Regulation issued, See: Regulations Under Development, No. 13, above.

c. For Further Information Contact: Robert M. Fenner, Assistant General Counsel, Office of General Counsel, telephone: (202) 632-4870.

5. a. § §701.27-1, 701.27-2, and 701.28, Purchase and Sale of Accounting Services, Accounting Service Center, and Joint Operations, review to consolidate and update in light of the proposed §701.27-2, Credit Union Service Corporation.

b. Status: Final regulation on §701.27-2 issued, See: Regulations Under Development, No. 1 (above).

c. For Further Information Contact: Layne Bumgardner, Division of Examination, Office of Examination and Insurance, telephone: (202) 254-8760; Todd A. Okun, Senior Attorney, Office of General Counsel, telephone: (202) 632-4870.

6. a. §701.35, Share Accounts and Share Certificate Accounts, review to simplify language.

b. Status: Final regulation issued, See: Regulations Under Review, No. 14 (above).

c. For Further Information Contact: J. Leonard Skiles, Deputy General Counsel, Office of General Counsel, telephone: (202) 632-4870.

7. a. Part 710, Voluntary Liquidation, review to determine whether regulations on this subject are necessary or whether the subject may be covered in a manual.

b. Status: Final edit of manual on this subject forwarded to NCUA offices for comment.

c. For Further Information Contact: William Berens, Division of Chartering and Insurance, Office of Examination and Insurance, telephone: (202) 254-8760.

8. a. Part 722, Advisory Committee Procedures, to be eliminated upon termination of the NCU Board.

b. Status: Part 722 repealed June 12, 1979 (44 FR 33675).

c. For Further Information Contact: Beatrix D. Fields, Staff Attorney, Office of General Counsel, telephone: (202) 632-4870.

9. a. Part 747, Subparts B, C, and D, Rules of Practice and Procedure for Involuntary Termination of Insured Status, for Cease and Desist Orders, and for Suspension and Removal Orders, review to determine whether to eliminate provisions that merely duplicate the Federal Credit Union Act.

b. Status: Regulation drafted and under review by NCUA offices.

c. For Further Information Contact: James J. Engel, Assistant General Counsel, Office of General Counsel, telephone: (202) 632-4870.

B. Regulations to Be Reviewed

1. §§701.3 and 701.4, Standard Form of Bylaws and Amendment of Bylaws, review to determine whether the regulations on this subject are necessary.

For Further Information Contact: Jon Lander, Division of Chartering and Insurance, Office of Examination and Insurance, telephone: (202) 254-9810.

2. §701.10, Establishment of Cash Fund, review to determine whether a regulation is necessary on this subject.

For Further Information Contact: Jerry Courson, Division of Examination, Office of Examination and Insurance, telephone: (202) 254-8760.

3. §§701.11, and 701.13, Election Report, and Financial and Statistical and Other Reports, review to determine whether the regulation is necessary to require submission of needed reports.

For Further Information Contact: Jerry Courson, Division of Examination, Office of Examination and Insurance, telephone: (202) 254-8760.

4. §701.12, Supervisory Committee Audit, review to determine whether the regulation on this subject is necessary or whether the subject might be covered in a manual.

For Further Information Contact: Mike Fischer, Special Assistant to the Assistant Administrator, Office of Examination and Insurance, telephone: (202) 254-8760.

5. §§701.22 and 701.23, Selling and Cashing Checks and Money Orders, review to determine whether the regulations on this subject are necessary or whether the subject may be covered in a manual.

For Further Information Contact: Thomas A. Straslicka, Division of Examination, Office of Examination and Insurance, telephone: (202) 254-8760.

6. §701.30, Safe Deposit Box Service, review to consolidate with regulations on Minimum Security Devices and Procedures, Part 748 of NCUA's Rules and Regulations.

For Further Information Contact: Wilmer Theard, Division of Examination, Office of Examination and Insurance, telephone: (202) 254-8760.

7. Part 703, Investments and Deposits, review to update in light of proposed §703.3.

For Further Information Contact: Robert Schafer, Division of Examination, Office of Examination and Insurance, telephone: (202) 254-8760.

8. Parts 706 and 707, Conversion from Federal to State Credit Union, and Conversion from State to Federal Credit Union, review to determine whether the regulations on this subject are necessary or whether the subject may be covered in a manual.

For Further Information Contact: Jon Lander, Division of Chartering and Insurance, Office of Examination and Insurance, telephone: (202) 254-8760.

9. Parts 708 and 709, Mergers of Credit Unions, Division of Assets, Liabilities, and Capital, review to determine whether regulations on these subjects are necessary or whether they may be covered in a manual.

For Further Information Contact: Jon Lander, Division of Chartering and Insurance, Office of Examination and Insurance, telephone: (202) 254-8760.

10.Part 735, Employee Responsibility and Conduct, review to update.

For Further Information Contact: James J. Engel, Assistant General Counsel, Office of General Counsel, telephone: (202) 632-4870.

11.Part 748, Minimum Security Device and Procedures, review to update and simplify in view of the needs of Federal credit unions.

For Further Information Contact: Stephen Raver, Director, Division of Examination, Office of Examination and Insurance, telephone: (202) 254-8760.

LAWRENCE CONNELL
Chairman

****

Liquidity Reserves of Insured Credit Unions June 4, 1979

TITLE 12–BANKS AND BANKING

CHAPTER VII–NATIONAL CREDIT UNION ADMINISTRATION

PART 742–LIQUIDITY RESERVES OF INSURED CREDIT UNIONS

AGENCY: National Credit Union Administration

ACTION: Proposed Rule

SUMMARY: The National Credit Union Administration proposes to simplify and broaden its liquidity reserve regulations because of significant declines in credit union liquidity. The National Credit Union Administration proposes to repeal the Share Draft Liquidity Reserve required under 12 C.F.R. 701.34(c)(5)(xiv) and establish a general liquidity reserve requirement for federally insured credit unions.

The proposed regulation would require all federally insured credit unions to maintain liquid asset holdings in amounts not less than 5% of total member accounts and notes payable. The liquidity reserve could be held in interest earning forms and be depleted if share outflows necessitate. For almost all federally insured credit unions, the regulation would entail no significant asset adjustments and no special reporting or compliance requirements.

EFFECTIVE DATE: Comments shall be forwarded to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, 2025 M St., N.W., Washington, D.C. 20456, to be received on or before July 25, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Robert H. Dugger, Acting Director, Policy Analysis Office, 1375 K Street, N.W., or Robert M. Fenner, Assistant General Counsel, Office of General Counsel, at the above address. Telephone: (202) 633-6775 (Mr. Dugger), (202) 632-4870 (Mr. Fenner).

SUPPLEMENTARY INFORMATION

Introduction

The National Credit Union Administration (NCUA) proposes to repeal its regulation requiring Federal credit unions to maintain a specific liquidity reserve on share draft accounts. This action should not be interpreted as indicating that NCUA feels such reserves are not needed. On the contrary, NCUA encourages credit unions to continue to maintain such reserves to accommodate share draft outflows.

In the interest of flexibility and simplicity, and in view of a continuing decline in credit union liquidity, NCUA proposes a liquidity reserve regulation which would require all federally insured credit unions to maintain liquid asset holdings in amounts not less than 5% of total shares and notes payable. Reserve eligible assets would include any combination of: (a) cash, (b) shares or deposits with maturities of 6 months or less in corporate central credit unions or federally insured banks or savings and loan associations, (c) U.S. Government obligations with remaining maturities of one year or less, or (d) shares in the National Credit Union Administration Central Liquidity Facility. To enable credit unions to utilize these assets, the liquidity reserve could be depleted to meet share outflows. This Administration has concluded that the 5% reserving requirement is the minimum prudent level of liquidity in view of current economic conditions. However, the 5% requirement, if adopted, will be reviewed on a continuing basis and modified appropriately to reflect new economic circumstances.

The proposed regulation would involve no additional reporting burdens on credit unions. Compliance would be determined from current State and Federal reports and examinations.

The proposed regulation would be promulgated under sections 116(b) and 201(b)(6) of the Federal Credit Union Act (12 U.S.C. 1762(b), 1781(b)(6)). These provisions authorize the NCUA Administrator to require insured credit unions to maintain such reserves as may be necessary to protect the interests of their members.

Need for the regulation

With the advent of Federal share insurance in 1970, the expansion of credit union powers in 1977, and the enactment of the Central Liquidity Facility in 1978, credit unions have probably experienced more change in the past nine years than any other type of financial institution. The turbulent economic events of the 1970's coupled with important changes in credit union operations have resulted in significant decreases in credit union liquidity and capitalization.

The need for adequate liquidity in credit unions is no different than in other financial institutions. Conceptually, liquidity represents an asset resource available to satisfy significant and, perhaps, unexpected outflows of funds. An analogous function is performed by loan loss and other equity capital accounts—they constitute a liability resource to accommodate reductions in asset values.

In a very important respect, capital and liquidity are tightly linked. To the extent that liquidity is available, outflows of share funds to meet member demands can be satisfied without liquidating valuable investment and loan assets. If it were not for liquidity, significant share outflows could force untimely sales of valuable assets possibly leading to insolvency and credit union failures. To the extent capital is available to absorb losses, member demand for funds can be satisfied by selling assets even after credit union liquidity has been exhausted.

Table 1 depicts the liquidity of federally insured credit unions expressed as a ratio of very liquid assets to total share accounts and to total liabilities since 1971. The same table also portrays the availability since 1971 of federally insured credit union capital, expressed as the ratio of loan loss reserves and retained earnings accounts to total assets. As the data show, liquidity and capital ratios were relatively steady until recent years when they began to decline markedly. These trends are likely to continue if current national economic patterns are maintained.

Considered alone, these trends and others discussed below should not be viewed with alarm. To a degree they represent acceptable adjustments to the changing nature of credit union operations and United States financial markets. Considered together, however, they suggest the need for action to assure an adequate degree of liquidity by preventing adjustment processes from going too far.

In Table 2 the borrowed funds/total assets ratio since 1971 is presented. This ratio depicts the amount of credit union assets supported by funds obtained from non-share account sources. In the same table, the volume of loans supported by share account funds is depicted. These ratios reflect somewhat different aspects of credit union dependance on outside funds. Rising trends in these ratios along with an average loan maturity increase from about 26 months at year-end 1976 to 33 months at year-end 1978 suggest declining credit union liquidity.

The public's increasing sensitivity to differences in interest rates paid on savings and transaction accounts is also of importance. This interest sensitivity, which used to be characteristic only of large

Table 1

Liquid Asset and Capital to Asset Ratios at Federally-Insured Credit Unions, 1971-78

Year	Narrow Definition[4]		Broad Definition[2]		Total capital[4] as percent of total assets
	Liquid assets as a percent of—		Liquid assets as a percent of—		
	Total shares	Total liabilities[3]	Total shares	Total liabilities[3]	
1971	15.8	14.9	19.0	17.9	7.5
1972	15.6	14.7	20.7	19.6	7.2
1973	13.8	12.8	19.2	17.8	7.0
1974	14.5	13.4	19.0	17.5	7.0
1975	15.9	14.7	22.6	20.9	6.6
1976	14.1	13.0	22.0	20.3	6.3
1977	11.5	10.6	20.6	19.0	6.0
1978[5]	8.3	7.5	15.1	13.6	5.7

[1] Under the Narrow Definition, liquid assets are defined as the sum of cash, shares, deposits and certificates in other credit unions and financial institutions, and common trust investments. This definition reflects the fact that a very high propostion of credit union government security holdings have long maturities and cannot be liquidated without significant losses.

[2] Under the Broad Definition, liquid assets includes the Narrow Definition plus total investments in U.S. Government and Federal Agency securities.

[3] Represents total shares plus notes payable and all other liabilities.

[4] Total capital represents the sum of total reserves and retained earnings.

[5] Preliminary.

share accounts, now pervades the accounts of moderate income households. For example, accounts with balances in excess of $5,000 were 28% of shares at the end of 1970. By yearend 1977, they had increased 558% and represented some 51% of total shares. This means that today the majority of savings in credit unions is interest sensitive. Such interest sensitivity has brought about Money Market Certificates for large account holders and several high yielding savings vehicles for small account holders and is the source of increasing share account volatility.

Growing interest sensitivity may lead to substantial erosion of Regulation Q constraints on the rates commercial banks and savings and loan associations can pay on savings and transaction accounts. To the extent this occurs, it will diminish a competitive advantage of credit unions—the freedom to pay more on regular share accounts than banks or savings and loan associations can pay on savings accounts. Such a trend could contribute significantly to further share account volatility.

Table 2

Loan-to-Share and Borrowed Funds Ratios of Federally-Insured Credit Unions, 1971-78

Year	Loans outstanding as a percent of total shares	Borrowed funds as a percent of total assets
1971 . . .	88.1	2.3
1972 . . .	86.5	2.3
1973 . . .	89.1	3.7
1974 . . .	89.5	4.1
1975 . . .	86.0	3.9
1976 . . .	88.5	4.3
1977 . . .	90.0	5.3
1978[1] . .	97.6	7.1

[1] Preliminary.

Explanation

The proposed liquidity reserve regulation would require each federally insured credit union to hold liquid assets totaling not less than five percent of the credit union's member accounts and notes payable. (Section 742.3) The five percent requirement is not intended to suggest that greater liquidity levels are excessive. On the contrary, five percent is regarded by NCUA as the minimum prudent level of liquidity.

The term "member account" as used in the regulation of the Federal Credit Union Act (12 USC 1752(5)) (Section 742.3) is defined in Section 101(5) and encompasses share and share certificate accounts (including those of public units and other nonmembers) held by Federal credit unions, and such accounts or similar accounts held by federally insured state-chartered credit unions. Thus, the base for determining minimum liquidity requirements consists of the total of all share accounts and notes payable.

The term "liquid assets" includes cash, deposits in corporate central credit unions with remaining maturities of 6 months or less, deposits in federally insured banks and savings and loan associations with remaining maturities of 6 months or less, U.S. government obligations (of a type authorized for investment by Federal credit unions under 12 U.S.C. 1757(7)) with remaining maturities of 1 year or less and shares in the National Credit Union Administration Central Liquidity Facility (Section 742.2(a)).

Shares in corporate central credit unions and the Central Liquidity Facility are included as reserve eligible assets because of the special roles these entities play in providing liquidity to the credit union system. The definition of a corporate central credit union, for this purpose, (Section 742.2(b)) is consistent with that contained in the recently proposed Central Liquidity Facility regulations (44 FR 26115).

Short term deposits in federally insured banks and savings and loan associations are included as reserve eligible assets because of their traditional function as liquidity sources. Excluding shares and deposits in insured credit unions (other than corporate centrals) may appear to be unfair. However, NCUA believes the exclusion is necessary, inasmuch as share holdings between insured credit unions do not contribute to the liquidity of the system as a whole.

The proposed maximum maturity limit of one year for U.S. Government obligations is based on NCUA's estimate of the maturity range of such securities which can be liquidated at any time without suffering losses due to market interest rate fluctuations.

The regulation would allow a credit union to deplete its liquidity reserve to satisfy share or deposit outflows. If its liquidity reserve falls below the 5% minimum, however, the credit union would be required to replenish its reserve within 60 days, unless an extension of time is granted by NCUA. (Section 742-4).

Reporting

The liquidity reserve regulation would impose no additional reporting burdens on credit unions. Credit union compliance with the regulation would be determined from current state and Federal reports and examinations.

Request for comments

NCUA is providing a comment period of approximately 45 days for this proposal. Comments will be received until July 25, 1979. During that time, NCUA encourages written comment on all aspects of the proposal.

Regulatory Analysis

In accordance with NCUA's Report on Implementation of Executive Order 12044—Improving Government Regulations, a draft analysis of the liquidity reserve regulation is available upon request.

Lawrence Connell
LAWRENCE CONNELL
Administrator

AUTHORITY: 12 U.S.C. 1762(b), 12 U.S.C. 1766(a), 12 U.S.C. 1781(b)(6).

Accordingly, it is proposed that

1. 12 C.F.R. 701.34(c)(5)(xiv) (Share Draft Liquidity Reserves) be repealed.
2. A new Section 742 (12 C.F.R. 742) be added to read as follows:

PART 742 Liquidity reserves of insured credit unions

§742.1 Purpose

The purpose of this part is to establish a liquidity reserve requirement that enhances the ability of insured credit unions to meet member demands for liquid funds and avoid asset losses.

§742.2 Definitions

As used in this part:

(a) "Liquid assets" means the following unpledged assets:

(i) cash on hand;

(ii) share of deposit accounts with remaining maturities of 6 months or less maintained in corporate central credit unions or institutions insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation;

(iii) investments in obligations of the United States or an agency thereof which are authorized for Federal credit unions under 12 U.S.C. 1757(7) and which have a remaining maturity of 1 year or less;

(iv) shares in the National Credit Union Administration Central Liquidity Facility.

(b) "Corporate central credit union" means a credit union operated primarily to serve other credit unions and in which the total dollar amount of shares and deposits received from other credit unions plus loans to other credit unions exceeds 50 percent of the total dollar amount of all shares and deposits plus loans to members.

§742.3 Liquidity reserve

Each credit union insured by the National Credit Union Share INsurance Fund shall maintain a daily reserve of liquid assets equalling, at a minimum, 5% of the total dollar value of its member accounts (as defined at 12 U.S.C. 1752(5)) and notes payable.

§742.4 Depletion and Replenishment

The liquidity reserve may be depleted below the level required by this Part only to meet outflows of shares or deposits. In the event of such depletion, the insured credit union shall immediately notify the appropriate National Credit Union Administration Regional Office and shall replenish its liquidity reserve to the required level within 60 days, unless an extension is approved by the Administration.

****

Amortization and Payment of Loans to Members

May 31, 1979

TITLE12—BANKS AND BANKING

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 701—ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

AGENCY: National Credit Union Administration

ACTION: Final Rule

SUMMARY: This rule provides an exception to the provisions of 12 C.F.R. 701.21-2 (Amortization and payment of loans to members), which require monthly payments for lines of credit established for members of Federal credit unions. The exception will permit payments on lines of credit at intervals greater than 1 month where appropriate to coincide with the borrower's receipt of income.

EFFECTIVE DATE: July 1, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Layne L. Bumgardner, Office of Examination and Insurance at the above address. Telephone: (202) 254-8760.

SUPPLEMENTARY INFORMATION

On January 30, 1979, the Administration published a proposed rule (44 FR 5900) to provide an exception to 12 C.F.R. 701.21-2 which requires monthly payments for lines of credit established for members of Federal credit unions. Additional amendments proposed in conjunction with the above change included a requirement to document the interval at which the borrower receives his/her income for all loans and lines of credit and a requirement for documentation of a borrower's creditworthiness in the credit union's loan files. Public comment was invited to be received by February 24, 1979. Upon review of these comments and after reconsideration of the proposed rule by the Administration, the following changes have been made.

ANALYSIS OF CHANGES

1. Documentation of the Interval of Receipt of Income

Three commenters questioned the need to mandate documentation (for all loans and lines of credit) of the interval at which the borrower receives income given the amendment's intended application to only lines of credit with payment intervals occurring less frequently than monthly. The Administration concurs with the rationale of this point and has changed the provisions of Section 701.21-1(e) so that the interval of the borrower's income need only be documented when the application is for a line of credit *on which payments are to be made at intervals greater than one month*.

2. Lines of Credit to Member Credit Unions

The wording "Corporate- Central" has been deleted from the proposed Section 701.21-2(b)(2)(iv) to clarify the fact that any *Federal credit union* (not just a Corporate Central) may extend a line of credit to one of *its member credit unions* with up to annual payment terms. While Corporate Central Federal credit unions are the primary group of credit unions having members which are other credit unions, there are central Federal credit unions also having members which are other credit unions. The Administration does not find it necessary to limit the line of credit terms for these central Federal credit unions by the requirements pertaining to natural person or other organizations which may be members of a Federal credit union.

3. Documentation of Creditworthiness

Two commenters questioned the clarity of the Administration's proposal to require *evidence* of each borrower's creditworthiness in the loan file. Therefore, the wording of Section 701.21-1(e) has been modified to clarify that the loan file must contain a loan or line of credit application which provides evidence of the credit committee's or loan officer's consideration of the factors identified in paragraph (d) of Section 701.21-1. In proposing the amendment, the Administration intended to assure that a loan application was on file which reflected the borrower's financial condition and supported the approving official's decision to extend credit to the applicant.

Lawrence Connell
LAWRENCE CONNELL
Administrator

AUTHORITY: Section 120, 73 Stat. 635 (12 U.S.C. 1766) and Section 209, 84 Stat. 1104 (12 U.S.C. 1789).

Accordingly, 12 C.F.R. 701 is amended as follows:

1. Reword Section 701.21-1(e) to read as follows:

(e) The loan files of a Federal credit union shall contain:

(1) a loan or line of credit application which documents that the credit committee or loan officer has considered for each borrower the factors specified in paragraph (d) of this section;

(2) evidence of the financial responsibility of any endorser;

(3) the value of any security provided by a borrower; and

(4) the interval at which the borrower receives funds which are intended to be relied upon for repayment of a line of credit, if payments for such line of credit will be made at intervals greater than one month.

2. Delete the wording "other than a member credit union" in the second sentence of Section 701.21-2(a).

3. Add the following subparagraphs after the end of Section 701.21-2(b)(2)(ii):

(iii) A line of credit may provide for required payments at intervals of greater than 1 month, but not greater than 12 months, where appropriate to coincide with the member/borrower's receipt of income.

(iv) A line of credit extended by a Federal credit union to its member credit union may provide for required payments at intervals of not greater than 12 months.

4. Delete the word "monthly" and the wording "(or annual payments in the case of a line of credit extended by a Corporate Central Federal credit union to its member credit unions)" in Section 701.21-3(b)(2).

****

Borrowed funds from Natural Persons May 31, 1979

TITLE 12–BANKS AND BANKING

CHAPTER VII–NATIONAL CREDIT UNION ADMINISTRATION

PART 701–ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

BORROWED FUNDS FROM NATURAL PERSONS

AGENCY. National Credit Union Administration

ACTION: Final Rule:

SUMMARY: The purpose of this rule is to establish disclosure requirements and set the maximum maturity and rate of return for borrowings by credit unions from natural persons. The rule requires that such borrowings be limited to credit union members and that the debt instrument and any advertisement thereof must clearly and conspicuously state that the funds obtained represent money borrowed by the credit union and are not insured by the National Credit Union Share Insurance Fund (NCUSIF). In borrowing from members, credit unions may issue promissory notes with maturities denominations and rates consistent with those prescribed for share certificate accounts (12 C.F.R. 701.35(c)(1) and 701.35 (g)).

EFFECTIVE DATE: July 5, 1979, except for Section 701.38(a)(1), which is effective August 1, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street, N.W., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: Either Mike Fischer, Chief Accountant, Office of Examination and Insurance, or James L. Skiles, Deputy General Counsel, at the above address. Telephone (202)254-8760 (Mr. Fischer) or (202)632-4870 (Mr. Skiles).

SUPPLEMENTARY INFORMATION:

On December 12, 1978, the National Credit Union Administration (Administration) published a proposed rule (43 F.R. 58096) to limit credit union borrowings from natural persons. Public comment was invited to be received on or before February 23, 1979. All comments received during the comment period and all comments received subsequent to the comment period have been considered in arriving at the final rule. Upon review of these comments and after a thorough reconsideration of the proposed rule by the Administration, various changes, as set forth below, have been made.

ANALYSIS OF CHANGES AND COMMENTS

1. Virtually all of the commenters agreed with the disclosure requirements regarding the uninsured status and terms and conditions relating to the borrowing of funds from natural persons. Several changes in language were suggested for this section to be more consistent with the Uniform Commercial Code, and the following changes were made:

a. In section (a)(2) the words "promissory note" and "prepayment" were substituted for the words "written agreement" and "early redemption," respectively.

b. In Section (a)(3) the words "promissory note" were substituted for the words "written agreement" and in (a)(3)(i) and (ii) the word "note" was substituted for the word "instrument."

The use of the words "Promissory Note" to identify the instrument evidencing borrowings from natural persons is required for all borrowings negotiated after the effective date of this regulation. Terms such as "Certificate of Indebtedness," "Certificate of Investment" and the like to refer to such borrowings are not permitted. In order to minimize the cost burden of this change, credit unions may use existing supplies of such forms for a period of 6 months or until the credit union's supply is exhausted, whichever is less, provided other requirements are satisfied.

2. Several commenters questioned the Administration's authority to regulate the area of borrowing from natural persons, pointing out that Section 107(9) of the Federal Credit Union Act (Act) permits Federal credit unions (FCU) to borrow from any source.

The Administration interprets the borrowing authority contained in Section 107(9) as being subject to the rulemaking authority of the Administration. In light of that authority and in consideration of the overall intent of the Act, the Administration has concluded that the action taken in this regulation is well within its discretion. First, under the Act, FCU's are organized as cooperative ventures designed to provide services to their membership. By statute, the membership of an FCU has been limited to an identifiable group. Second, funds obtained by the use of certificates of indebtedness (CI) represent, for all practical purposes, savings of individuals. Third, under the provisions of the Act, FCU's are only authorized to accept savings of members, with certain exceptions, subject to the limitations prescribed by the Administration, such limitations including the authority to establish dividend rates. Fourth, the utilization of CI's to attract savings from nonmembers is contrary to the Act's purpose of providing cooperative ownership status for members and providing savings security through the NCUSIF. Fifth, the use of CI's negates the authority of the Administration to regulate dividend rates by allowing FCU's to pay interest rates in excess of dividend rates under the guise of a borrowing activity.

The Administration has, therefore, retained the requirement that borrowings from natural persons can only be from members.

3. A number of commenters stated that by limiting CI's to a 7 3/4% rate, CI's have been made ineffective in acquiring funds in today's money market.

It is true that at the 7 3/4% rate, the CI's would not be competitive with the 26 week money market certificates for funds in blocks of $10,000 or more. Credit unions can, however, structure their programs with different maturities and smaller denominations to make the permissible rate attractive. In addition, this Regulation has been revised to make the maximum rates conform with the revised share certificate regulation. Section 701.38(a)(4) has been changed to permit FCU's to pay rates equivalent to those permitted for share certificates.

Maturities shall not be less than 90 days nor more than 6 years, except promissory notes for public unit funds may be issued with maturities of not less than 30 days nor more than 6 years. Corporate central Federal credit unions, may issue promissory notes with maturities of not less than 30 days nor more than 6 years.

An FCU may pay a rate of return on borrowings from members, expressed as an annual rate, as follows:

(a) In the case of a promissory note of $10,000 or more having a maturity of 26 weeks, the maximum rate, which shall *not* be compounded during the term of the note and may be rounded off only by rounding down, shall be:

(i) one quarter of one percent above the discount rate (auction average on a discount basis) for 26 week United States Treasury bills issued on or immediately prior to the date of issue of the promissory note if such discount rate is less than 8 3/4%; or

(ii) 9% if such discount rate is not less than 8 3/4% and not more than 9%; or

(iii) equal to the discount rate if such discount rate exceeds 9%.

(b) On promissory notes of $100,000 or more at a rate determined by money market conditions; or

(c) On all other promissory notes at a rate not to exceed the greater of 7 3/4% or 100 basis points (1%) below the average 4-year yield for United States Treasury securitites, as determined and announced by the United States Department of Treasury three business days prior to the first day of each month, during the month of issuance of the account.

4. A number of commenters indicated that by limiting the maximum rate of return and the maximum maturities of CI's to the same as those for share certificates, members would no longer find CI's desirable or acceptable.

One of the intended results of this regulation is to channel member funds into shares rather than into CI's. To facilitate this transformation the Administration has revised the share certificate regulation to make these equity accounts more flexible. Credit unions should be able, under the revised share certificate regulation, to fashion a variety of share and share certificate accounts to meet member needs.

5. Many commenters expressed the belief that the restrictions on CI's would cause credit unions to have to borrow from other financial institutions at rates higher than borrowing from individuals.

The Administration is not unmindful of the fact that borrowing from other financial institutions is generally more costly than is borrowing from individuals. This is one of the primary reasons that the Administration reexamined and revised the share certificate regulation. The flexibility provided by the revised share certificate regulation should permit Federal credit unions to acquire needed funds from members through prudently structured share and share certificate accounts rather than through CI's. The need for institutional borrowing should not increase to any significant degree.

6. Several commenters indicated that share certificate programs were more complex and more costly to administer than are CI programs. Credit Unions indicated that the penalty computation for premature withdrawals was particularly involved and required changes in data processing software for implementation. For these reasons these credit unions continued to rely on CI's rather than institute share certificate programs.

In response to these comments the Administration has revised the penalty provision of the share certificate regulation to require a simple forfeiture of dividends for 90 or 180 days dependent upon the qualifying period of the share account or share certificate account involved. As previously indicated, the share certificate regulation has been revised to provide greater flexibility. A credit union should be able to structure share and share certificate accounts, in this more permissive environment, which would require minimal if any changes in data processing software from that required for CI's.

7. Some commenters indicated that the abrupt limitation on the use of CI's could cause short term adverse effects on those credit unions who have increasingly relied upon CI's.

It is for this precise reason that the issuance of a final regulation on borrowing from natural persons has been delayed until compensating changes could be made in the share certificate regulation. The Administration believes that the revised share certificate authority is sufficiently broad to permit credit unions with existing CI programs to implement comparable share certificate programs. Additionally, the effective date of Section 701.38(a)(1) has been delayed until August 1, 1979, to provide credit unions with an additional period of time in which to develop their share certificate programs.

It should also be noted that outstanding CI's which do not conform with the requirements of this regulation need not be immediately redeemed. Such outstanding CI's can remain outstanding until maturity, however, any renewals, reissues, or new issues must conform with the requirements of this regulation.

It is the Administration's understanding that some instruments outstanding do not specify a maturity but are redeemable periodically at the option of the credit union or the holder. Where such instruments are used and are presently outstanding, they shall be redeemed no later than August 1, 1980.

8. A few commenters requested that the Administration hold public hearings on the proposed regulation. The Administrative Procedures Act requires the Administration to give the public an opportunity to submit written views on a proposed regulation "... with or without opportunity for oral presentation." 5 U.S.C. Section 553(c). This decision is left to the discretion of the agency. The Administration has indicated that it would hold public hearings on a proposed regulation if the comments received do not provide sufficient information or do not adequately represent significantly varying public interests (see: NCUS's Final Report "In Response to Executive Order 12044: Improving Government Regulations," 44 F.R. 17954).

This proposed regulation was issued on December 12, 1978, with a public comment period officially open to February 23, 1979. The Administration continued to accept written comments received after that date. This extended public comment period, we believe, has provided a reasonable opportunity for interested persons to submit written comments. In fact, over 70 comment letters were received from sources of varying interest. These numerous comments have provided sufficient information for the Administration to consider in its review of the proposed regulation. As previously stated the effective date has been delayed to provide an additional period of time for FCU's to develop their share certificate programs in order to comply with the limitations prescribed by this rule. The effective date of Section 701.38(a)(1) is also being delayed to provide interested parties further opportunity to provide additional comments. Therefore, The Administration has decided not to hold public hearings on the proposed regulation.

Lawrence Connell

LAWRENCE CONNELL
Administrator

AUTHORITY: Sec. 107(9), 91 Stat. 49 (12 U.S.C. 1757), Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).

Accordingly, 12 C.F.R. 701 is amended by adding a new section as set forth below:

Section 701.38 Borrowed Funds From Natural Persons

(a) Federal credit unions may borrow from a natural person, PROVIDED:
  (1) the individual is a member of the credit union;
  (2) the borrowing is evidenced by a signed promissory note which sets forth the terms and conditions regarding maturity, prepayment, interest rate, method of computation, and method of payment;
  (3) the promissory note and any advertisement for such funds contains conspicuous language indicating that:
    (i) the note represents money borrowed by the credit union;
    (ii) the note does not represent shares, and therefore, is *not* insured by the National Credit Union Share Insurance Fund; and
  (4) the maturities, rates and denominations are consistent with those prescribed for share certificates in Section 701.35(c)(1) and 701.35(g) of this Part.

Share Accounts and
Share Certificate Accounts **May 30, 1979**

TITLE 12–BANKS AND BANKING

CHAPTER VII–NATIONAL CREDIT UNION ADMINISTRATION

PART 701–ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

Share Accounts and Share Certificate Accounts

AGENCY: National Credit Union Administration

ACTION: Final Rule

SUMMARY: On April 9, 1979, the National Credit Union Administration invited public comment on a proposed rule on share accounts and share certificate accounts (44 FR 21029). The period for receipt of comments expired on May 4, 1979. After consideration of the comments and the views expressed therein (comments received after May 4 were considered) the Administration is:

(1) Amending the dividend rate that may be paid on share certificate accounts from 7 3/4% to the greater of 7 3/4 % or 100 basis points (1%) below the average 4-year yield for United States Treasury securities as determined and announced by the United States Treasury three business days prior to the first day of the month of issuance. The rate structure for money market certificates and share certificates of $100,000 or more has not been amended.

(2) Authorizing a new type of share certificate account that requires a minimum of 90 days notice of intent to withdraw and further requires additions to the account on a regular basis.

(3) Deleting the minimum amount requirement for share certificate accounts (the minimum amount requirements for money market certificates and share certificates of $100,000 or more have not been amended).

(4) Authorizing the establishment of other types of share accounts not inconsistent with the regulations.

(5) Modifying the minimum required penalty provisions.

EFFECTIVE DATE: Effective July 1, 1979.

ADDRESS: National Credit Union Administration, 2025 M Street, N.W., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: J. Leonard Skiles, Deputy General Counsel, at the above address. Telephone: (202) 632-4870.

SUPPLEMENTARY INFORMATION:

In response to the notice of proposed rulemaking, approximately 70 written comments were received. A majority of the commenters favored adoption of the proposed rule. However, some of these commenters expressed concern that increased dividend rates which benefit savers would have an adverse effect on the cost of funds to borrowers. All of the commenters who objected to the proposed rule did so for the same reason. Generally, the commenters considered the increased flexibility permitted Federal credit unions in fashioning share accounts and share certificate accounts to meet the needs of their membership to be highly desirable.

This rule is intended to provide Federal credit unions with greater flexibility to implement savings programs that will benefit to the greatest extent possible the entire membership. Through the promulgation of this rule the Administration is encouraging Federal credit unions to examine their share account and share certificate account programs and develop savings plans that benefit their memberships. In so doing, the Administration has determined that each Federal credit union can best evaluate competitive pressures that may adversely affect its operations and act accordingly if it is provided broad parameters within which to operate and meet member demands. Those broad parameters are reflected in this rule by defining the various types of accounts, deleting certain minimum amount requirements, setting minimum/maximum qualifying periods, requiring that dividend rates may not exceed certain maximums, and when applicable, establishing a minimum penalty. A Federal credit union should have sufficient latitude to create accounts that maximize the savings opportunities of all members, particularly members of low or moderate means, and at the same time provide financial stability and continued viability for the credit union. A discussion of the amendments adopted follows.

1. Share Account: The term "share account" has been redefined by deleting reference to minimum balance, split-rate and notice accounts. These amendments were necessary in order to achieve internal consistency in the regulation, minimize operational difficulties presently experienced by Federal credit unions, and to allow Federal credit unions to fashion a broad range of share accounts as long as they comply with other terms and conditions set forth in the regulation. Federal credit unions may still offer what have been defined pursuant to the present regulations as minimum balance accounts, split-rate accounts, notice accounts, or any combinations of such accounts or any other type of account as long as members receive proper notice of all terms and conditions and all terms and conditions are consistent with the regulations. This regulation simply broadens the possibilities available to Federal credit unions to be innovative and tailor their share accounts in a manner which best suits the requirements of their membership.

This rule makes it clear that all Federal credit unions must offer a regular share account. (Section 701.35(b)(i)(ii.) However, there is no requirement that in order to become a member a regular share account must be established. The board of directors of each Federal credit union must determine what is best for the characteristics of its own membership. For example, the board of directors could establish a policy that every member must have a regular share account. Likewise, the board may establish a policy that if a person within the field of membership and otherwise eligible for membership opens any type of account in the credit union, it would satisfy the membership requirement of purchasing shares in the credit union. Whatever policy, it must be applied in a non-discriminatory manner. The definition of regular share account has been amended in the final rule to clarify that a regular share account must qualify for a dividend. That is, Federal credit unions cannot establish regular share accounts that are intended not to earn dividends.

Notwithstanding the mandatory requirement that a regular share account must be offered, Federal credit unions are free to fashion variations of the traditional regular share account that will now qualify as a regular share account. For example, a split-rate account, provided the minimum balance required to establish the account is no greater than the par value of a share and no notice of intent to withdraw on the entire account is required, could be designated as a regular share account. In the preamble to the proposed rule, it was pointed out that if a Federal credit union has more than one type of account that conceptually could be designated as a regular share account, it would have to designate the amount that would constitute the "regular share account" for purposes of the penalty provisions. With the modifications to the penalty provisions made by this rule, that is no longer necessary. An explanation of the amendments to the penalty provisions is expanded below.

Several commenters wanted to know whether either or both of the following variations on a split-rate account are permissible. The first type is where, for example, a credit union agrees to pay 5 1/2% on amounts up to $500, 6% on the amount over $500 but less than $750 and 6 1/2% on amounts over $750. The second example is where a credit union agrees to pay 5 1/2% on amounts up to $500 but, when the balance rises to between $500 and $750, the credit union pays 6% on the *entire* balance and not just the excess over $500. Either method is permissible and would qualify as a regular share account. However, before the latter method is instituted, credit unions should be aware of the operational and data processing difficulties that might arise. For example, if the balance in the account was over $500 for a few days during the dividend period but at other times was below that level, computations on dividends would become quite complex. Necessary reprogramming of computers will be complex and expensive. However, this is up to the discretion of the Board of Directors.

Pursuant to this regulation, as is the case with the current regulation, a share draft account is a regular share account. For example, the dividend rate on an account accessed by share drafts must be the same as the rate paid on the account designated as the regular share account by that credit union. However, certain clarifications are necessary. A regular share account accessed by share drafts would not preclude the establishment of a type of "hybrid" account incorporating share drafts and elements of split-rate accounts. For example, a Federal credit union could fashion a traditional regular share account (with $5.00 requirement) but only allow access to that account by means of share drafts when the balance in the account was greater than $200.00. This would still fit the definition of regular share account because no minimum balance is required to establish the account or to maintain it and no notice of intent to withdraw is required. When the balance is below $200.00, access would have to be accomplished by another method, such as withdrawal in person or by telephone. When the balance exceeded $200.00, a share draft could be used. This type of account is to be distinguished from an impermissible share draft account that simply requires $200.00 for purposes of establishing membership and for which a penalty would be assessed when the balance was below that minimum. In the permissible account, access by share draft is permitted only over a certain balance. Membership has been established on the first $5.00 share and access by a non-draft method is acceptable. In the non-permissible account, $200.00 is required to establish the account and membership. If a Federal credit union requires separate accounts for share draft purposes, that does not change the nature of the account.

Finally, several commenters requested clarification on how to characterize a notice account that was not accompanied by a contractual savings plan. Such an account is a share account and is subject to the 7% limitation on dividends.

2. Share Certificate Accounts: The major substantive amendment relating to the structure of share certificate accounts is the addition of a new type of account—a notice share certificate. Conceptually, it is very similar to a regular notice account. That is, no funds may be withdrawn without incurring a penalty. The notice share certificate account, however, goes one step beyond the requirement that a minimum notice must be given in order to withdraw without being penalized. That is, an essential element of the notice share certificate account is that there must be an underlying written agreement between the member and the credit union whereby the member agrees to make additions to the account on a regular basis. (Section 701.35(a)(2)(ii)(c)). This underlying agreement requirement is extremely important—perhaps the most important procedural aspect in establishing the notice share certificate account.

The agreement should contain the essential elements the credit union considers necessary to protect itself and make the proper disclosures to the member. Obviously, the agreement must contain provisions relating to the frequency and amount of payments. Negotiations of these terms will result in an agreement that is best suited for the member. One caveat must be kept in mind. While the credit union can tailor the savings plans to meet the needs of each member, it must be done on a nondiscriminatory basis.

Since the written agreement is crucial, many commenters requested guidance concerning what issues should be covered. The following list of questions, while not exhaustive, delineates the major areas that should be addressed.

(1) What penalty will be imposed for failure to meet periodic savings requirements? How many missed payments will constitute default? It is the Administration's view that if a Federal credit union fails to enforce the terms of the agreement requiring regular additions to the account, a notice share certificate, as defined in Section 701.35(a)(2)(ii) has not been established. If the certificate account does not meet the requirements of that section, then the account will be subject to the limitations of a share account.

(2) Will the credit union allow periodic payments in excess of the required amount to receive the premium dividend rate? If so, will the credit union limit such excess amounts? Will additions to the account after notice is provided be permitted? (Of course, the contract should contain the frequency and minimum amounf of required payments into the notice share certificate account.) Additions to the account after notice is provided may earn the premium rate if the additions are made pursuant to a written savings plan.

(3) What is the minimum notice period (the 90 days requirement of this rule is only a *minimum*) and when must notice be provided?

(4) What is the term or qualifying period? That is, how long must the member make regular payments to the account? For example, if the credit union requires additions to the account for two years, two years is the qualifying period. It should be noted that a withdrawal of funds below any minimum amount requirement established by the credit union would require imposition of a penalty but not necessarily negate any contractual arrangements that regular additions must continue to be made.

(5) Will notice require that a specific dollar amount be given? Will only a maximum amount have to be given or, perhaps, a range of probable withdrawal amounts?

It cannot be stressed too strongly that the underlying contract is the crux of the notice share certificate account. Federal credit unions are urged to consider carefully all terms and conditions that affect the relationship between itself and the member and incorporate them into contract form prior to implementing a program. Lack of contract specificity and incomplete coverage of terms and conditions will result in a myriad of problems for all parties. A failure by credit unions to eliminate such problem areas by a thorough agreement may require additional regulations and may result in unnecessary litigation.

Some commenters asked whether a payroll deduction authorization card could constitute the contractual savings plan. While the deduction card could certainly be incorporated into the contract to indicate that the amount of the deduction will constitute the amount of the periodic deposit, in all likelihood it cannot constitute the entire contract agreement as it will not consider all the questions and problems outlined above.

The preamble to the proposed rule indicated a "perpetual" or "standing notice" would not be permitted. Perpetual or standing notice means that the member is permitted to give notice one time, for example, at the time the account is opened, and after the running of the first 90 days a withdrawal can be made at any time without suffering a penalty. Notices of this type will not be permitted. To permit such a practice would defeat the purpose for requiring notice. A member must affirmatively provide notice of intent to withdraw. The final rule clarifies that a member must also specify when the withdrawal will be effected. However, a grace period following the specified date to allow for unexpected problems is permitted.

One commenter requested clarification on what constitutes the principal amount in the account—specifically, when do dividends become a part of principal? Any accumulated dividends in a share certificate account at the time it is renewed or the maturity is reset because of additions to the account will become a part of the principal and subject to the penalty provisions if withdrawn early. Any amendment that results in an increase in the rate of dividends paid or in a reduction in the maturity constitutes a payment of the share certificate prior to maturity.

Section 701.35(b)(2) requires that share accounts and share certificate accounts offered shall be made available to all members on an equal basis. This does not preclude the board of directors from establishing a limit on the amount of funds that can be placed in the various types of accounts. It simply means that members shall be given an equal opportunity to open that type of account.

Section 701.35(c)(2) currently requires that any changes in the terms and conditions upon renewal must be provided at least 10 days prior to the expiration of the qualifying period. This Section has been amended to delete the requirement for share certificate accounts with qualifying periods of less than 90 days.

3. Dividend Rate Structure: Many commenters indicated that the proposed rate structure was simply at a range that is too high for credit unions to afford.

It should be noted that the rate structure was devised to maintain as much consistency as possible with the rate structures governing other financial institutions. This Administration's proposed rule that the dividend rates be increased to the greater of 8 1/4% or a specified floating rate was keyed, as to the 8 1/4%, to the maximum rates set for rising rate certificates proposed by the other financial regulatory agencies. Since the final rule governing banks and savings and loans did not incorporate that particular proposal, a lower maximum rate of the greater of 7 3/4% or 100 basis points below the average 4-year yield for United States Treasury securities was adopted to maintain consistency in the rate maximums. The rate structure only delineates *maximum* allowable dividend rates. Federal credit unions are not required to offer such maximums. It is the duty of each Federal credit union in devising a share account program to carefully establish its own rate structure based upon the character of its members. That is, it must consider the cost of services deemed most desirable by its members, the loan demands of its members and interest rate limitations, the liquidity needs of the credit union itself, and carefully devise a program of share accounts and share certificate accounts at varying terms and maturities. It should be remembered that there is no requirement that a Federal credit union offer any share certificates or any other type of share account except a regular share account.

If a Federal credit union uses the floating rate (100 basis (1%) points below the average 4-year yield) as its ceiling, that ceiling rate will remain in effect for all share certificate accounts issued during the month until the first day of the next month when a new ceiling rate will go into effect for accounts issued on or after that date. The ceiling rate established at the time of issue for that account cannot be changed during the period the account is outstanding. Compounding is permitted. The average 4-year yield will be announced three business days prior to the effective date and will represent an average of the 4-year yields for the previous five business days.

4. Penalty Provisions: The current regulation requires that any withdrawal prior to maturity is subject to a penalty. The minimum required penalty is a reduction in the dividend rate to that paid on regular share accounts and a forfeiture of up to 90 days dividends. Under the current structure, the amount of the early withdrawal penalty increases significantly the longer the account is maintained. In order to alleviate the severity of this penalty, the penalty provision has been reduced to require a minimum forfeiture of three months dividends, at the rate being paid on the account, on accounts with qualifying periods of one year or less. If the amount withdrawn has been maintained in the account for less than three months, however, all dividends are forfeited. The minimum required early withdrawal penalty for accounts with qualifying periods over one year is a forfeiture of six months dividends at the rate being paid on the accounts. If the amount withdrawn has been maintained in the account for less than six months, however, all dividends are forfeited. No reduction to the regular share account rate will be required. This penalty will apply to all share certificate accounts entered into on or after July 1, 1979. All share certificate accounts entered into prior to July 1, 1979, shall be subject to the penalty provisions then in effect. It is emphasized that the new penalty provisions are the minimum requirements. Federal credit unions are free to impose additional penalties.

While very little comment was received on the penalty provisions, this amendment was considered necessary to, as stated above, lessen the severity of the penalty. Additionally, it is easier to apply; is easier for the public to understand; and is consistent with the approach being taken by the other financial regulatory agencies. To delay amending the regulation at this time could create an unnecessary outflow of funds.

5. Minimum Amount Requirements: Several commenters indicated confusion concerning the deletion of the minimum amount requirement for share certificates. This Administration is requiring no minimum amount to establish a share certificate account except on money market certificates and certificates that earn a rate based on money market conditions. The Board of Directors has discretion to set any minimum amount for share certificates or share accounts except regular share accounts.

6. IRA and Keogh Accounts: The final regulation modifies the maximum dividend rate that may be paid on IRA and Keogh accounts to an amount equal to that payable on other share certificate accounts if that rate exceeds 8%. This amendment was necessary to prevent the outflow of retirement funds that could occur if the permissible maximum rate on retirement funds was below that available on other types of certificates or investment vehicles offered by other financial institutions.

7. Notice Requirements: A few commenters indicated that the concept of "negative notice" should be allowed not just where the change of account is from one type of regular share account to another type of regular share account, but where the change, no matter what its nature, would result in a "benefit" to the member. The Administration rejects this approach. While it may be true that a member will not object to changes made in his account that will be to his "benefit," the Administration believes that if such "benefit" involves *any* changes in the terms and conditions imposed upon the member, such changes cannot be instituted without the member's consent. Therefore, the only proper and permissible use of "negative notice" is in converting a regular share account to another type of regular share account. However, because affirmative approval by the member could be established by telephone without the expense of mailings, the requirement of *written* approval has been deleted.

LAWRENCE CONNELL
Administrator

AUTHORITY: Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).

Accordingly, Section 701.35 is amended to read as follows: § 701.35 Share Accounts and Share Certificate Accounts—

(a) **Definitions**—As used in this Section:

(1) Share Account means:

(i) Regular Share Account—an account which does not require the holder to maintain a balance greater than the par value of a share or to give notice of intent to withdraw, except as may be imposed in accordance with the Federal Credit Union Bylaws and that qualifies for a dividend; or

(ii) Any other account that is not, by definition, either a regular share account or a share certificate account.

(2) Share Certificate Account means:

(i) An account that will earn dividends at a particular rate if held to maturity and on which a penalty shall be assessed for any premature withdrawal. Additions shall reset the maturity of the entire account for a term equal to the original qualifying period, or

(ii) An account that will earn dividends at a particular rate provided:

(A) A notice of a minimum of 90 days of intent to withdraw on a specified date is required;

(B) A penalty is assessed for failure to provide a minimum of 90 days notice; and

(C) Regular additions are made to the account for the duration of the qualifying period pursuant to a written contract or savings plan.

Additions to this type of account shall not reset the maturity of the entire account for a term equal to the original qualifying period.

(3) Premature Withdrawal means:

(i) The withdrawal of all or any portion of the principal amount prior to maturity, or

(ii) The withdrawal of all or any portion of the principal amount prior to providing any required notice.

(b) **Issuance of Share Accounts and Share Certificate Accounts**

(1) The board of directors, by resolution, may establish share accounts with varying dividend rates and share certificate accounts with varying dividend rates and share certificate accounts with varying dividend rates and maturieies in conformance with the following:

(i) Any terms and conditions prescribed by the board of directors concerning the issuance and maintenance of share accounts and share certificate accounts must be consistent with the requirements of this section; and

(ii) A regular share account as defined in paragraph (a)(1)(i) must be available to all members, either as a separate account or in combination with other account features adopted by the board.

(2) Share accounts and share certificate accounts offered shall be made available to all members on an equal basis. Special share certificate accounts may be established for funds deposited to the credit of, or in which the entire beneficial interest is held by, an individual pursuant to an Individual Retirement Account agreement or Keogh Plan as provided for by Section 721.4. Such special share certificate accounts shall be made available on an equal basis to all members who qualify. No officer, director, member of the credit or supervisory committees, employee, or other official appointed or elected, shall be the holder of a share account or any type of share certificate account unless all qualifying members of the credit union are given an equal opportunity to become holders of such accounts.

(3) Share accounts and share certificate accounts shall be subject to any notice which may be imposed pursuant to the Federal Credit Union Bylaws.

(4) No regular share account may be converted to any other type of account without the express authorization of the account holder.

(c) **Limitations on Share Certificate Accounts**

(1) Qualifying periods shall not be less than 90 days nor more than 6 years, except, however, public unit accounts may be issued with qualifying periods of not less than 30 days nor more than 6 years. Corporate central Federal credit unions, as defined in Part 704 of the Rules and Regulations (12 C.F.R. Part 704), may issue share certificate accounts with qualifying periods of not less than 30 days nor more than 6 years.

(2) Upon maturity, share certificate accounts may be automatically renewed at the same terms and conditions as initially issued, or as may be otherwise provided for in accordance with a written agreement between the holder and the credit union. Notice of any such renewal, changes in the terms and conditions, or expiration of the qualifying period (in addition to the disclosure requirements set forth in subsection (k) shall be provided at least 10 days prior to the expiration of the qualifying period, except accounts with qualifying periods of less than 90 days.

(3)(i) In case of premature withdrawal of the principal amount which reduces the balance below any required minimum amount, the account shall be cancelled and a penalty pursuant to subsection (d) of this section shall be imposed upon the entire amount evidenced by the share certificate account. If the required minimum amount continues to be met, a penalty pursuant to subsection (d) of this section shall be imposed upon the amount withdrawn (and not upon the remaining balance) and either:

(A) an appropriate notation may be made on the account indicating the amount and date of the withdrawal and the remaining balance, or

(B) the account may be cancelled and a new account issued.

(ii) A share certificate account holder may withdraw any and all dividends previously paid on the share certificate account without incurring a penalty. Any amendment to a share certificate account that results in an increase in the dividend rate or a reduction in the qualifying period constitutes a payment of the account before maturity.

(d) **Penalty Provisions**

(1) Penalties imposed shall be on the actual dividends earned, and shall not be imposed on the principal amount held in a share account or share certificate account. In assessing any applicable penalty, however, the amount of the penalty may be deducted from the principal amount if the dividends upon which the penalty is assessed have been previously withdrawn.

(2) The board of directors may establish a penalty to be imposed for failure to comply with any terms or conditions of a share account, other than a regular share account, and a share certificate account.

(3) The board of directors shall establish a penalty to be imposed for premature withdrawal from a share certificate account. The penalty established shall, at a minimum, require:

(i) If the qualifying period is one year or less the member shall forfeit an amount equal to the lesser of:

(A) All dividends for 90 days on the amount withdrawn, or

(B) All dividends on the amount withdrawn since the date of issuance or renewal.

(ii) If the qualifying period is greater than one year, the member shall forfeit an amount equal to the lesser of:

(A) All dividends for 180 days on the amount withdrawn, or

(B) All dividends on the amount withdrawn since the date of issuance or renewal.

(e) **Exceptions to the Penalties**—Penalties shall not be applied if:

(1) The withdrawal is made subsequent to the death of any owner of the share account or share certificate account or is made pursuant to Article III, Section 5(e) of the Federal Credit Union Bylaws;

(2) The share account or share certificate account is part of a pension plan which qualifies or qualified for specific tax treatment under Section 401(d) or 408 of the Internal Revenue Code and withdrawal is made to effect distribution of the funds evidenced by such account following the participant's death or disability or upon attaining not less than 59 1/2 years of age; or

3) Such withdrawal is made as a result of the voluntary or involuntary liquidation of the Federal credit union issuing the account.

(f) **Rate Specified or Contracted For In Advance,**

(1) If specified or contracted for in advance, the dividend rate shall:

(i) For regular share accounts, be expressed as either a single dividend rate or for regular share accounts that earn differing rates for differing balances, each rate shall be expressed; and

(ii) For the remaining types of share accounts and share certificate accounts, be expressed as

(A) A percentage above or below the dividend rate declared for regular share accounts, or

(B) A single dividend rate.

(g) **Maximum Dividend Rate**—A Federal credit union may pay a maximum dividend, expressed as an annual rate, as follows:

(1) 7% on a share account;

(2) On a share certificate account, except as otherwise provided in this subsection, that is issued on or after the first day of every month, up to the greater of 7 3/4% or 100 basis points (1%) below the average 4-year yield for United States Treasury securities, as determined and announced by the United States Department of Treasury three business days prior to the first day of each month, during the month of issuance of the account;

(3) On a share certificate account which represents an investment of retirement account funds pursuant to Section 721.4 that is issued on or after the first day of every month up to the greater of 8% or 100 basis points (1%) below the average 4-year yield for United States Treasury securities, as determined and announced by the United States Department of Treasury three business days prior to the first day of each month, during the month of issuance of the account;

(4) A rate determined by money market conditions on a share certificate account of $100,00 or more; or

(5) In the case of a share certificate account of $10,000 or more having a fixed term or qualifying period of 26 weeks, the maximum dividend rate, which shall not be compounded during the term or qualifying period and may be rounded off only by rounding down, shall be:

(i) one quarter of one percent above the discount rate (auction average on a discount basis) for 26 weeks United States Treasury bills issued on or immediately prior to the date of the purchase of the share certificate if such discount rate is less than 8 3/4%; or

(ii) 9% if such discount rate is not less than 8 3/4% and not more than 9%; or

(iii) equal to the discount rate if such discount rate exceeds 9%.

(h) **Dividend Periods**—The board of directors may vary dividend periods for differing share accounts and share certificate accounts. Share certificate accounts which mature between dividend periods shall be entitled to dividends at the rate declared for that type of certificate at the close of the last dividend period before maturity.

(i) **Dividends Calculated on Par Value or Actual Value**—A Federal credit union may calculate dividends to be paid on share accounts and share certificate accounts either upon the par value of shares or upon the actual value held in the share accounts and share certificate accounts.

(j) **Advertising**—In addition to the advertising requirements established in Part 740 of the Rules and Regulations (12 C.F.R. Part 740) and elsewhere in this section, the following rules shall apply to every advertisement, announcement, or solicitation relating to share accounts and share certificate accounts.

(1) Where a dividend rate is specified or contracted for in advance:

(i) Any terms and conditions necessary to earn that dividend at that rate shall be stated;

(ii) A clear and conspicuous notice shall be included indicating that the specified or contracted rate shall not be paid if available earnings are insufficient. Such notice may state "Federal regulations prohibit payment of dividends in excess of available earnings";

(iii) The basis upon which dividends will be paid; and

(iv) A clear and conspicuous notice stating that Federal regulations prohibit the compounding of dividends during the qualifying period shall be included in the case of share certificates issued pursuant to paragraph (g)(5).

(2) Where a penalty will be imposed for failure to comply with any term or condition, a clear and conspicuous notice shall be included. Such notice may state "A substantial penalty is required for failure to comply with these requirements."

(3) Where a percentage yield achieved by compounding dividends during one year is stated, the annual rate of dividends without the effect of compounding shall be stated with equal prominence, together with a reference to the basis of compounding and the basis for calculating dividends (either on par value or actual value). The percentage yield based on the effect of grace periods shall not be stated.

(k) **Disclosures**

(1) At the time that a Federal credit union issues any share account or share certificate account, the holder of the account shall be provided, to the extent applicable, with a written statement setting forth the following:

(i) Any terms or conditions which must be met for the share account or share certificate account to earn dividends at a particular rate;

(ii) The basis of compounding, the basis upon which dividends will be paid and the effect of premature withdrawal;

(iii) That Federal regulations prohibit payment of dividends in excess of available earnings, and in the case of share certificates issued pursuant to paragraph (g)(5), that Federal regulations prohibit the compounding of dividends during the qualifying period;

(iv) Any penalty imposed for the failure to comply with any terms and conditions;

(v) Any provisions relating to automatic renewal of share certificate accounts;

(vi) The disposition of the funds in a share certificate account if it is not renewed; and

(vii) Membership in the Federal credit union will terminate upon maturity of a share certificate account, unless renewed, if the holder does not have or establish a share account or share certificate account in addition to the share certificate account which is maturing.

(2) A Federal credit union need not provide a written disclosure statement in connection with the renewal of an existing account. Notice must be sent to affected account holders of any change in any provision required to be disclosed.

(3) A copy of a standard disclosure statement for each class or type of account offered by a Federal credit union shall be provided upon request. If accounts other than regular share accounts are offered, a listing of the accounts available shall be prominently displayed in the Federal credit union's offices and shall indicate that a copy of a standard disclosure statement for each class or type of account is available upon request.

****

Fees Paid by FCUs **May 4, 1979**

TITLE 12—BANKS AND BANKING

CHAPTER VII—NATIONAL CREDIT UNION ADMINISTRATION

PART 701—ORGANIZATION AND OPERATION OF FEDERAL CREDIT UNIONS

FEES PAID BY FEDERAL CREDIT UNIONS

AGENCY: National Credit Union Administration

ACTION: Final Rule

SUMMARY: This rule amends the regulations governing the assessment of fees on Federal credit unions by replacing separate charges for chartering, supervision, and examination with a single operating fee payable by all operating Federal credit unions. Public Law 95-630 permits the NCUA Board to assess fees in accordance with schedules and for time periods in an amount necessary to offset the expenses of NCUA at a rate consistent with a credit union's ability to pay.

EFFECTIVE DATE: June 15, 1979

ADDRESS: Comments on this final regulation may be submitted to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, 2025 M Street, N.W., Washington, DC 20456.

FOR FURTHER INFORMATION CONTACT: John R. Sander, Budget Officer, Office of the Comptroller, National Credit Union Administration, 2025 M Street, N.W., Washington, DC 20456. Telephone (202)633-6737.

SUPPLEMENTARY INFORMATION

On February 26, 1979, the Administration published a proposed rule to change the method of assessing fees on Federal credit unions. Public comment was invited to be received on or before March 26, 1979.

Based on an analysis of the comments received, the Administration has made no changes to the proposed rule.

ANALYSIS OF COMMENTS

The comments received from the credit union trade associations indicated substantial credit union support for the operating fee structure. However, some credit unions indicated concern with paying for an examination which they may not receive. The Administration recognizes that every Federal credit union will not be examined every calendar year. The frequency of examination of Federal credit unions is governed by the total employment authorized for NCUA by the Office of Management and Budget (OMB).

In view of the current emphasis of the President and Congress to reduce Federal employment, NCUA must direct its limited examiner resources to those credit unions in most need of examination. Therefore, examinations will be conducted based on various operational factors such as size, complexity of operations, prevalence of critical problems, etc. Some credit unions will be examined less frequently than others, however, it is NCUA's objective that a Federal credit union will not be left unexamined for more than 24 months.

Additional comments were provided requesting that a separate operating fee schedule be adopted for assessing fees on corporate central Federal credit unions (CCFCU's). The proposed scale of fees would be significantly less than other Federal credit unions would pay since the commentor maintained that CCFCU's operate on a smaller spread between income and expense. The commentor stated that, when compared to the operating fees paid by other Federal credit unions as expressed as a percentage of total expenses, the CCFCU s would pay from 12 to 19 times more.

The Administration does not agree with this conclusion since the analysis compared the operating fee as a percentage of total operating expenses (before dividends) in other credit unions to the operating fee as a percentage of the spread between cost of funds and return on funds for CCFCU's. These amounts are not similar in nature and cannot be used to present an accurate analysis of the impact the operating fee has on CCFCU's. If, on the other hand, the operating fee is expressed as a percentage of total expenses including dividends for CCFCU's as well as other credit unions, the percentages are nearly the same. The Administration concludes as a result that the operating fee will not have a greater or lesser impact on CCFCU's than it has on other types of Federal credit unions.

OPERATING FEE ASSESSMENT FOR CALENDAR YEAR 1979: Invoices for the operating fee assessment for calendar year 1979 are being mailed to each Federal credit union as of the effective date of this regulation. The fee will be based on the total assets of each Federal credit union as of December 31, 1978, calculated in accordance with the operating fee scale presented in Attachment A. Federal credit unions that have been examined and have already paid an examination fee in 1979 will receive a credit towards the operating fee assessment. The operating fees are due and payable no later than July 15, 1979.

Accordingly, 12 C.F.R. 701 is amended as set forth below.

LAWRENCE CONNELL
Administrator

AUTHORITY: Section 105, 93 Stat. 3652 (12 U.S.C. 1755), Section 120, 73 Stat. 635 (12 U.S.C. 1766) and Section 209, 84 Stat. 1104 (12 U.S.C. 1789).

1. Section 701.1 Organization of Federal credit unions
   Subsection (c) is amended:

(1) by deleting the language "together with a check or money order payable to the National Credit Union Administration in the amount of $25 in payment of the investigation fee of $20 and charter fee of $5. The Regional Director," and by inserting in lieu thereof the word "who"; and

(2) by inserting a "." after the word "action" in the sixth sentence and by deleting the language "and the charter fee of $5 shall be returned to them. Under no circumstances shall the investigation fee of $20 be returned."

2. Section 701.6 is revised to read as follows:
   Section 701.6 Fees paid by Federal credit unions

(a) **Basis for assessment**. Not later than January 31 of each calendar year, each Federal credit union shall pay to the Administration for the current calendar year an operating fee in accordance with a schedule as fixed from time to time by the National Credit Union Administration Board based on the total assets of each Federal credit union as of December 31 of the preceding year.

(b) **Coverage**. The operating fee shall be paid by each Federal credit union engaged in operations as of January 1 of each calendar year. Newly chartered Federal credit unions will not pay an operating fee until January 31 of the year following the first full calendar year after the date chartered. Federal credit unions merging with other Federal or state credit unions and Federal credit unions converting to state charter will not receive a refund of the operating fee paid to the Administration in the year in which the merger or conversion takes place. State chartered credit unions that convert to Federal charter will pay an operating fee on January 31 of the year following the conversion to a Federal charter. Federal credit unions in liquidation will not pay any operating fee after the date of liquidation.

(c) **Notification**. Each Federal credit union shall be notified at least 30 days in advance of the schedule of fees to be paid. A Federal credit union may submit written comments to the Board for consideration regarding the existing fee schedule. Any subsequent

Attachment A

Operating Fee Computation

Determine the total amount of assets of your Federal credit union as of December 31 of the calendar year shown in accordance with instructions for closing the books contained in the Accounting Manual for Federal Credit Unions. Enter the amount in the appropriate space.

Compute the amount of operating fee payable from the scale shown and enter the amount in the appropriate space.

Operating Fee Scale

Total Assets	Fee
Under $25,000	$3 per $1,000 but not less than $10
Over $25,000	$75, plus $2.50 per $1,000 for assets exceeding $25,000
Over $50,000	$137.50, plus $2.20 per $1,000 for assets exceeding $50,000
Over $100,000	$247.50, plus $1.40 per $1,000 for assets exceeding $100,000
Over $250,000	$457.50, plus $1.10 per $1,000 for assets exceeding $250,000
Over $500,000	$732.50, plus $.65 per $1,000 for assets exceeding $500,000
Over $1,000,000	$1,057.50, plus $.50 per $1,000 for assets exceeding $1,000,000
Over $2,000,000	$1,557.50, plus $.44 per $1,000 for assets exceeding $2,000,000
Over $5,000,000	$2,877.50, plus $.22 per $1,000 for assets exceeding $5,000,000
Over $20,000,000	$6,177.50, plus $.21 per $1,000 for assets exceeding $20,000,000
Over $50,000,000	$12,477.50, plus $.20 per $1,000 for assets exceeding $50,000,000
Over $100,000,000	$22,477.50, plus $.19 per $1,000 for assets exceeding $100,000,000

The above scale is applied to even thousand-dollar units with fractional parts of $1,000 dropped.

revision to the schedule shall be provided to each Federal credit union at least 15 days before payment is due.

(d) **Calendar Year 1979 Operating Fee.** For the calendar year 1979 the operating fees payable by each Federal credit union will be due 30 days after the effective date of this regulation. The basis for assessment and the coverage of the fees remain the same as stated in subsections (a) and (b) above.

3. Sections 701.7 Fee for examination and 701.8 Fee for examination of Federal credit unions in liquidation are deleted.

****

Purchase, Sale, and Pledge
of Eligible Obligations
May 3, 1979

TITLE 12–BANKS AND BANKING

CHAPTER VII–NATIONAL CREDIT UNION ADMINISTRATION

PART 701–ORGANIZATION AND OPERATIONS OF FEDERAL CREDIT UNIONS

PURCHASE, SALE, AND PLEDGE OF ELIGIBLE OBLIGATIONS

AGENCY: National Credit Union Administration

ACTION: Final Rule

SUMMARY: The rule permits a Federal credit union to do the following things. First, it can purchase from, sell to, or pledge to any source any eligible obligations of its members. Second, it can purchase from a liquidating credit union any eligible obligations of the liquidating credit union's individual members. Eligible obligations purchased on this basis can be sold or pledged to any source. Third, if granting student loans on an ongoing basis, it can purchase student loans from any source, if the purchase will facilitate the purchaser's packaging of a pool of such loans to be sold or pledged on the secondary market. Student loans purchased on this basis can be sold or pledged to any source. Fourth, if granting real estate loans pursuant to Section 701.21-6 on an ongoing basis, it can purchase real estate loans from any source, if the purchase will facilitate the purchaser's packaging of a pool of such loans to be sold or pledged on the secondary mortgage market. Real estate loans purchased on this basis can be sold or pledged to any source. The rule is necessary to implement provisions of the April 19, 1977 amendments (Public Law 95-22, 91 Stat. 49) to the Federal Credit Union Act. It is intended to provide Federal credit unions greater flexibility both in meeting member demands and in spreading the risk of those demands. It is also intended to provide Federal credit unions making student loans and Federal credit unions making long term real estate loans greater access to the respective secondary markets. This should enhance a credit union's ability to react quickly and efficiently to meet liquidity needs.

EFFECTIVE DATE: This rule will be effective immediately upon publication. However, comments on it will be accepted if received on or before June 15, 1979. If necessary, an amended rule will be issued later.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Stephen Raver, Director, Division of Examination, Office of Examination and Insurance, or John L. Culhane, Jr., Attorney-Advisor, Office of General Counsel, National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456. Telephone numbers: (202) 254-8760 (Mr. Raver), (202)632-4870 (Mr. Culhane).

SUPPLEMENTARY INFORMATION

Before Public Law 95-22 was passed, Federal credit unions could not purchase, sell, or pledge obligations of their members. Public Law 95-22 granted these powers, to be implemented by rules adopted by the Administration.

As an interim measure, the Administration issued a rule allowing Federal credit unions to sell long term real estate loans to the Federal National Mortgage Association, the Federal Home Loan Mortgage Corporation, and to Federal, state, and local housing authorities. This interim rule was later amended to allow Federal credit unions to sell their members' guaranteed student loans to the Student Loan Marketing Association.

On January 2, 1979, the Administration published a proposed rule, which would, when adopted in final form, replace the interim rule. 44 Fed. Reg. 60 (1979). Comments were requested by January 31, 1979. Shortly after the public comment period ended, one commenter requested, and was granted, permission to submit comments. Those comments were received on February 26, 1979. They were considered, along with all other comments received on or before that date.

Virtually all of the comments were favorable. Several commenters, while agreeing with most of the provisions of the proposed rule raised questions or made suggestions that convinced the Administration that a number of changes from the proposed rule are warranted. In addition, some changes have been made to resolve problems detected by the Administration. This final rule replaces the interim rule, effective immediately.

ANALYSIS OF CHANGES AND COMMENTS

1. PURCHASES

a. Overlap

The final rule allows a Federal credit union to purchase different loans in different situations. It can purchase an eligible obligation of one of its members from any source. It can purchase an eligible obligation of a liquidating credit union's individual member from the liquidating credit union. It can purchase a student loan for pooling purposes. It can purchase a real estate loan for pooling purposes. As noted by several commenters, these provisions can overlap.

Where the provisions overlap, the purchaser may decide which provision it has relied on. This decision does not have to be made when the loan is purchased. However, if the purchaser delays too long it may find that it cannot use certain provisions. The circumstances that existed when the purchase was made, such as whether or not the borrower was then a member of the purchasing credit union, will govern in determining which provisions might have been used.

There will be different consequences depending upon which provision is selected. For example, suppose a Federal credit union discovers that it has purchased a real estate loan of one of its own members from a liquidating credit union. The loan has a maturity of thirty-five years, so it could not have been granted by the Federal credit union. This loan could have been purchased either an an eligible obligation of a member, as an eligible obligation sold by a liquidating credit union, or in the proper circumstances, as a loan to be used in packaging a pool.

In this situation, the Federal credit union should consider these factors, among others, in making its decision. The loan must be refinanced within 60 days of the date it was purchased (as discussed below) if the Federal credit union wants to treat it as having been purchased as an eligible obligation of a member. If more than 60 days have passed, this provision could not be used. The loan need not be refinanced if it is to be treated as a loan purchased from a liquidating credit union. Under the proper circumstances, it could be treated as a loan purchased for pooling purposes. In that case, it would have to be promptly sold or pledged on the secondary market.

b. Eligible Obligations of Members

A Federal credit union can purchase the eligible obligation of a member if the obligation is a "loan it is empowered to grant." As originally drafted, the proposed rule required that the eligible obligation be a "type of loan [a Federal credit union] is empowered to grant." The phrase "type of loan" has been deleted from the final rule, since as noted by one commenter, it was somewhat misleading. The basic restriction has been retained, however. It remains the Administration's belief that Congress did not intend that Federal credit unions should be handling unfamiliar obligations, with certain limited exceptions.

In order to provide some flexibility, a provision has been added which will allow a Federal credit union to purchase a member's loan which it could not grant, regardless of who the seller is. When this is done, the loan must be refinanced, within 60 days of the date it is purchased, to comply with the lending restrictions placed on Federal credit unions. For example, a consumer loan bearing interest at an annual rate of 13 percent could be purchased if refinanced so that the annual interest rate is no greater than 12 percent. In addition, the member must consent to the refinancing. To assure that this will happen, a Federal credit union should obtain the member's consent before completing arrangements to purchase the loan.

One problem concerning the purchase of eligible obligations of members has been noted. It is the extent to which Section 701.21-4 of the Administration's regulations should apply when the member whose loan is being purchased is also an official of the Federal credit union buying the loan.

Section 701.21-4 basically requires the board of directors to approve certain loan applications. Board approval is necessary on certain loans to officials and on certain loans guaranteed or endorsed by officials. To avoid any claims of preferential treatment of officials, the purchase of an official's loan and the purchase of a loan endorsed or guaranteed by an official will normally be treated as though the credit union is actually granting the loan. If under Section 701.21-4 board approval would be necessary to grant the loan, it will be necessary to purchase the loan. Section 701.21-4 will soon be amended to explain how the appropriate calculations will be made.

The Administration does not intend to require board approval, however, where an official's loan or a loan endorsed or guaranteed by an official is purchased from a liquidating credit union. Nor will board approval be required where such a loan is purchased for pooling purposes. Board approval would slow down the liquidation process in the first case. In the second, it would unduly hamper a Federal credit union trying to package a pool of loans for the secondary market.

c. Eligible Obligations of a Liquidating Credit Union

One commenter asked how the proposed rule would relate to Section 701.29, the present rule governing the purchase of notes from a liquidating credit union. Having reviewed the requirements of Section 701.29, the Administration has decided to delete that Section. The purchase of notes from a liquidating credit union will be governed by this rule.

One change has been made from the proposed rule. Recognizing that the power to purchase notes from a liquidating credit union was added in part to speed up the liquidation process, the Administration has deleted the requirement that loans purchased be ones that the purchasing Federal credit union could have granted.

d. Student Loans

The Student Loan Marketing Association requested that the Administration review the language and legislative history of the Federal Credit Union Act to determine if Federal credit unions can purchase student loans of members and non-members in order to package a pool of loans to be sold or pledged on the secondary market. The Administration has concluded that this may be done provided that the purchasing credit union is granting student loans on an ongoing basis and provided that the loans purchased are ones on which payment has been deferred. In addition, the loans purchased must be secured by the insurance or guarantee of the Federal Government, or a State government, or any agency of either.

As the Administration has noted, Section 107(13) of the Federal Credit Union Act (12 U.S.C. §1757(13)), which authorizes the purchase of eligible obligations, does not authorize a Federal credit union to purchase a loan unless the person liable on the loan happens to be a member of that credit union (or unless the seller is a liquidating credit union). However, considering the Congressional intent in enacting P.L. 95-22 to encourage Federal credit union lending to accomplish certain social or economic objectives, the Administration does not believe that Congress intended Section 107(13) to be an express prohibition on such purchases, provided they are authorized by other sections of the Act.

It is the Administration's belief that the power to purchase student loans is incidental to the power granted in Section 107(5)(A)(iii) (12 U.S.C. §1757(5)(A)(iii)) to make loans secured by the insurance or guarantee of government agencies. In order to operate an effective student loan program, where payments on the loans are deferred, a Federal credit union must be able to access efficiently the secondary market for such loans. This can best be done by pooling these loans. Pooling is advantageous where a portfolio of a certain size must be amassed in order to qualify for a par purchase. Also, there may be important administrative advantages under a pooling arrangement, since only the Federal credit union packaging the pool will be a party to any purchase contract.

Student loans purchased to package a pool of loans will be treated similarly to real estate loans purchased to package a pool of loans. Consequently, they will not be included in determining whether the aggregate balance of unpaid notes purchased has exceeded 5 percent of the unimpaired capital and surplus of the purchaser.

To encourage Federal credit unions to make student loans and to assemble a pool of such loans to be sold or pledged on the secondary market, the Administration will permit the purchase of non-member loans for pooling purposes. However, because they will be purchasing loans of non-members, Federal credit unions will be expected to sell or pledge obligations purchased to package a pool of loans promptly. Arrangements to dispose of such loans should generally be made in advance of their purchase by obtaining a commitment from a buyer to purchase the pool of loans before the pool is actually assembled.

The Administration believes that pooling student loans will benefit smaller Federal credit unions granting student loans by making entry into the secondary market more feasible. It will benefit larger Federal credit unions by allowing them to sell or pledge their loans in such a way as to take greater advantage of marketplace conditions. It will benefit credit union members by generating more funds for additional student loans.

e. Real Estate Loans

The comments received concerning the purchase of real estate loans for pooling purposes prompted the Administration to reexamine the statutory authority for this power. Balancing the need for efficient access to the secondary mortgage market against Congressional intent in restricting the real estate loans that can be made by Federal credit unions, the Administration had proposed to allow Federal credit unions actively engaged in real estate lending to purchase loans, for pooling purposes, only from other credit unions and only if those loans complied with Section 701.21-6. These limitations were proposed to ensure that credit union funds would not be used for luxury homes or for other than one-to-four-family dwellings.

Based on its review, the Administration has decided that these limitations were unnecessarily restrictive. Consequently, the rule has been changed to allow Federal credit unions to purchase real estate loans for pooling purposes from any source. However, a loan can only be purchased if it was used to finance the acquisition of a one-to-four-family dwelling for the principal residence of the borrower, if the sales price was not more than 150 percent of the median sales price of residential real property situated in the geographical area in which the property is located, and if the loan is secured by a first lien upon such dwelling. As long as these requirements are met, maturities, interest rates, and other terms and conditions may vary from those required by Section 701.21-6.

In order to purchase real estate loans for pooling purposes, the proposed rule required that a Federal credit union be "engaged in real estate lending pursuant to Section 701.21-6." Because there seemed to be some confusion both as to how this phrase was to be interpreted and as to the degree of activity required, it has been revised. A Federal credit union must now be "granting real estate loans pursuant to Section 701.21-6 on an ongoing basis."

This means that the Federal credit union's board of directors must have adopted a policy of granting long term real estate loans. The Federal credit union must actually be granting these loans, i.e. accepting applications, processing them, and disbursing its own funds. This must be done on an ongoing basis.

The purchase of loans must also "facilitate the purchaser's packaging of a pool of such loans." This means that the Federal credit union must include a substantial portion of its own loans in the pool. Once it disposes of, i.e. sells or pledges, a particular pool of loans, it must then grant more loans before a second pool can be assembled.

Should the board of directors decide that the credit union will stop making real estate loans, it will still be considered by the Administration to be "granting real estate loans . . . on an ongoing basis" for a reasonable period (e.g. 60 days) after the board's decision becomes final. Loans may be purchased for pooling purposes up to that time, provided that this last pool is disposed of promptly.

Given the statutory authority for this power, the Administration does not believe that the phrase "granting real estate loans pursuant to Section 701.21-6 on an ongoing basis" can be deleted, nor can a specific exception be made for corporate centrals, as suggested by one commenter. If a central or corporate central has natural members to which it grants real estate loans on an ongoing basis, then it may purchase real estate loans for pooling purposes, if the purchase will facilitate the packaging of a pool.

Because they will be purchasing loans of non-members and loans they could not grant, Federal credit unions will be expected to sell or pledge obligations purchased to package a pool of loans promptly. Arrangements to dispose of such loans should generally be made in advance of their purchase by obtaining a commitment from a buyer to purchase the pool of loans before the pool is actually assembled.

f. The 5% Limitation

Two comments were received concerning this provision, which would have limited the amount of loans that could be purchased to 5 percent of the unimpaired capital and surplus of the purchaser. One commenter requested that a waiver clause be added allowing a Federal credit union to make more purchases with the Administration's prior written approval. Another commenter reviewed the legislative history of the provision and argued that the limitation should apply only to obligations of non-members purchased from liquidating credit unions.

The Administration feels that the language of Section 107(13) is clear, and that the best interpretation is that adopted in the proposed rule. However, exceptions have been written into the rule for student loans and real estate loans purchased to package a pool of loans for the appropriate secondary market. The limitation is not applicable in those cases because such purchases are not made pursuant to Section 107(13). A similar restriction has not been imposed so as not to hamper the ability of Federal credit unions to access the respective secondary markets.

2. SALES

Although no comments were received concerning these provisions, two changes have been made. The Administration has amended the rule to clarify that student loans purchased to package a pool may be resold. The rule has also been amended to allow a Federal credit union to sell any loans it purchased using the power to purchase eligible obligations of a liquidating credit union's individual members from the liquidating credit union.

This second change is the result of the Administration's examination of relevant judicial decisions and of the language and legislative history of the Federal Credit Union Act. The Administration has concluded that the power to purchase notes from a liquidating credit union by implication includes the power to sell or pledge those loans.

3. PLEDGES

The one comment received on these provisions concerned the requirement of the proposed rule that the original loan documents be retained. The commenter noted that the Uniform Commercial Code will usually require that the party to whom loan documents have been pledged take possession of those documents in order to have priority over other creditors who may also have a security interest in them. In addition, in the event of default by a Federal credit union that has pledged loan documents as security for a loan it obtained, the lender will need to take possession of the loan documents to sell them.

The Administration agrees that a change is warranted and has therefore amended the rule to require that copies of the original loan documents be retained. The requirement has not been eliminated, as suggested by the commenter. The Administration believes that the loan documents or copies of them should be available for review by the agency's examiners in order to assure that the loans comply with applicable laws and with sound credit union practice.

Two other changes have been made. The rule has been amended to allow a Federal credit union to pledge any loan it purchased using the power to purchase eligible obligations of a liquidating credit union's individual members from the liquidating credit union. The Administration has also amended the rule to clarify that student loans purchased to package a pool of loans may be pledged.

4. DISCOUNTS

In the preamble to the proposed rule the Administration announced that it did not presently intend to regulate the discounting of eligible obligations. Credit union officials were advised that any abuses would be remedied by administrative actions, including cease and desist actions. The Administration also advised that, under the proper circumstances, it would consider civil and criminal actions against the directors of a credit union who abuse the power. One commenter, referring to the possibility of civil or criminal liability, requested guidelines as to what would be considered reasonable.

The Administration believes that the facts of each case will, for the most part, determine whether or not a discounting was reasonable. Consequently, in reviewing a particular transaction the Administration will look at the effect of that transaction on the credit union's equity. It will also look to see if the transaction was designed to benefit certain officials, creditors, or third parties at the expense of the credit union.

5. TEN PERCENT LIMITATION

The proposed rule required that a Federal credit union's retained or acquired interest in loans to a member be added with other loans to the member and with partial interests in participation loans to determine the member's total indebtedness to the credit union. The sum of these amounts could not exceed 10 percent of the credit union's unimpaired capital and surplus. Real estate loans purchased to package a pool of loans to be sold or pledged on the secondary mortgage market were to be excluded in determining whether this limit would be exceeded.

Upon reconsideration, the Administration has revised this part of the rule. Real estate loans of members *will* be considered in determining whether the 10 percent limit has been exceeded, even if they are purchased for pooling purposes. In addition, when used in this part of the rule, the word "person" will be interpreted to mean both a member and a non-member. Consequently, the same calculations used to determine a member's total indebtedness will be used to determine a non-member's total indebtedness to the credit union. This sum may not exceed the 10 percent limit.

Real estate loans purchased for pooling purchases had originally been excluded so as not to hamper the purchasing credit union's ability to access the secondary mortgage market. Because Federal credit unions must generally have assets of $2,000,000 or more to engage in real estate lending, and hence, to purchase other real estate loans for pooling purposes, this change should not adversely affect the purchasing credit union's ability to access the secondary market. Similarly, because a real estate loan cannot be purchased for pooling purposes if its sales price exceeds 150 percent of the median sales price of residential real property in the geographical area in which the property is located, this change should have little effect on the real estate loans that can be purchased for pooling purposes.

The change will serve to protect a credit union in the rare case where, under the proposed rule, a large loan could have been purchased. In that case, had the borrower defaulted before the loan was sold, the credit union's financial stability could have been jeopardized. Because the 10 percent limit protects the credit union when any one person defaults, the rule has been revised so that similar protection will be afforded when non-member loans are purchased, regardless of whether they are purchased from liquidating credit unions or are purchased from other sources to be used in assembling pools of real estate or student loans.

6. EFFECTIVE DATE

Several commenters requested that the final rule be effective immediately upon publication. The Administration is convinced that good cause exists for the rule to become effective prior to thirty days from the date of publication in the Federal Register.

Although Federal credit unions may now grant long term real estate loans, they cannot always convert these loans into funds which can be used to generate additional loans. Further, by limiting the institutions to which Federal credit unions may sell loans, the interim rule subjects Federal credit unions to the risk of fluctuating interest rates, should they be unable to meet the yield required by those institutions. The present interim rule, because it does not allow Federal credit unions to purchase non-member real estate loans for pooling purposes, also does not allow efficient access to the secondary mortgage market. Therefore, to ensure the liquidity of Federal credit unions making these loans, Federal credit unions need to be able to pool these loans and to sell them to any source immediately.

While the Administration believes that these reasons outweigh the need for a delayed effective date, the Administration recognizes its duty to provide an opportunity for further comment since substantive changes have been made. Therefore, comments received on or before June 15, 1979 will be considered, and, should a demonstrated need arise, further amendments to the rule will be made.

LAWRENCE CONNELL
Administrator

AUTHORITY: Sec. 107(5)(A)(i), 91 Stat. 49 (12 U.S.C. 1757 (5)(A)(i), (iii)), Sec. 107(13), 91 Stat. 51 (12 U.S.C 1757(13)), Sec. 107(15), 82 Stat. 284 (12 U.S.C. 1757(15)), Sec. 120, 73 Stat. 635 (12 U.S.C. 1766) and Sec. 209, 84 Stat. 1104 (12 U.S.C. 1789).

Accordingly, 12 C.F.R. Part 701 is amended by replacing existing §701.21-8 with the following and by deleting existing §701.29 and reserving that section for later use:

Part 701.21-8: Purchase, Sale, and Pledge of Eligible Obligations

(a) For purposes of this section:

(1) "Eligible obligation" means a loan or group of loans, other than a line of credit loan, except, however, the term shall include a line of credit loan of a liquidating credit union.

(2) "Student loan" means a loan granted to finance the borrower's attendance at an institution of higher education or at a vocational school, which is secured by and on which payment of the outstanding principal and interest has been deferred in accordance with the insurance or guarantee of the Federal Government, of a State government, or any agency of either.

(3) "Real estate loan" means a loan granted to finance the acquisition of a one-to-four-family dwelling for the principal residence of the borrower, the sales price of which is not more than 150 percent of the median sales price of residential real property situated in the geographical area in which the property is located, and which is secured by a first lien upon such dwelling.

(4) "Obligation account" means a special payable account established for the accumulation of payments on a loan awaiting distribution to the purchaser of an eligible obligation.

(b) Purchase

(1) A Federal credit union may purchase, in whole or in part, within the limitations of the board of directors' written purchase policies:

(i) Eligible obligations of its members, from any source, if either (A) they are loans it is empowered to grant or (B) they are refinanced with the consent of the borrowers, within 60 days after they are purchased, so that they are loans it is empowered to grant;

(ii) Eligible obligations of a liquidating credit union's individual members, from the liquidating credit union;

(iii) Student loans, from any source, if the purchaser is granting student loans on an ongoing basis and if the purchase will facilitate the purchasing credit union's packaging of a pool of such loans to be sold or pledged on the secondary market; and

(iv) Real estate loans, from any source, if the purchaser is granting real estate loans pursuant to section 701.21-6 on an ongoing basis and if the purchase will facilitate the purchasing credit union's packaging of a pool of such loans to be sold or pledged on the secondary mortgage market. The dollar amount of loans purchased in accordance with this subsection shall be included in the aggregate dollar amount of real estate loans allowed under section 701.21-6(b)(4).

(2) A Federal credit union may make purchases in accordance with subsection (b), PROVIDED:

(i) The board of directors or investment committee approves the purchase; and

(ii) A written agreement and a schedule of the eligible obligations covered by the agreement are retained in the purchaser's office.

(3) The agreement to purchase a partial interest in eligible obligations shall, at a minimum:

(i) Identify the eligible obligations covered by the agreement;

(ii) Provide for the collection, processing and/or remittance of payments of principal and interest, late charges, service charges, escrow accounts (if required), and obligation accounts;

(iii) Disclose the responsibilities of each party in the event an eligible obligation becomes subject to collection, loss or foreclosure;

(iv) Provide that in the event of loss each owner shall share in the loss in proportion to its interest in the eligible obligations;

(v) Provide for the distribution of payments of principal to each owner proportionate to its interest in the eligible obligation;

(vi) Provide for loan status reports; and

(vii) State the terms and conditions under which the agreement may be terminated or modified.

(4) The aggregate of the unpaid balances of eligible obligations purchased under subsection (b) shall not exceed 5 percent of the unimpaired capital and suprlus of the purchaser. Student loans purchased in accordance with subsection (b)(1)(iii) and real estate loans purchased in accordance with subsection (b)(1)(iv) shall not be included in considering this 5 percent limitation.

(c) Sale

(1) A Federal credit union may sell, in whole or in part, to any source, eligible obligations of its members, eligible ogligations purchased in accordance with subsection (b)(1)(ii), student loans purchased in accordance with subsection (b)(1)(iii), and real estate loans purchased in accordance with subsection (b)(1)(iv), within the limitations of the board of directors' written sale policies, PROVIDED:

(i) The board of directors or investment committee approves the sale; and

(ii) A written agreement and a schedule of the eligible obligations covered by the agreement are retained in the seller's office.

(2) An agreement to sell a partial interest in eligible obligations shall at a minimum comply with the requirements set forth in subsection (b)(3).

(3) A sale of an eligible obligation shall not be subject to recourse or repurchase provisions. However, the following are permitted:

(i) An agreement which requires the seller to repurchase the eligible obligation because of any breach of warranty or misrepresentation;

(ii) An agreement which allows the seller to repurchase at its discretion; and

(iii) An agreement which allows substitution of one loan for another loan.

(d) Pledge

(1) A Federal credit union may pledge, in whole or in part, to any source, eligible obligations of its members, eligible obligations purchased in accordance with subsection (b)(1)(ii), student loans purchased in accordance with subsection (b)(1)(iii), and real estate loans purchased in accordance with subsection (b)(1)(iv), within the limitations of the board of directors' written pledge policies, PROVIDED:

(i) The board of directors or investment committee approves the pledge;

(ii) Copies of the original loan documents are retained; and

(iii) A written agreement covering the pledging arrangement is retained in the office of the credit union that pledges the eligible obligations.

(2) The pledge agreement shall, at a minimum:

(i) Identify the eligible obligations covered by the agreement;

(ii) Disclose the responsibilities of each party in the event an eligible obligation becomes subject to collection, loss or foreclosure.

(iii) Set forth the terms and conditions regarding substitution; and

(iv) Set forth the terms and conditions under which the agreement may be modified or terminated.

(e) Servicing

A Federal credit union may agree to service any eligible obligation it purchases or sells in whole or in part.

(f) 10 Percent Limitation

The total indebtedness owing to any Federal credit union by any person, inclusive of retained and reacquired interests, shall not exceed 10 percent of its unimpaired capital and surplus.

Part 701.29: [Reserved].

CLF Membership and Lending **April 30, 1979**

TITLE 12–BANKS AND BANKING

CHAPTER VII–NATIONAL CREDIT UNION ADMINISTRATION

PART 725–NATIONAL CREDIT UNION ADMINISTRATION CENTRAL LIQUIDITY FACILITY

MEMBERSHIP AND LENDING

National Credit Union Administration

ACTION: Proposed Rule

SUMMARY: These proposed regulations would establish the membership requirements and lending policies and procedures of the National Credit Union Administration Central Liquidity Facility ("Facility"). The Facility was created by Title XVIII of Public Law 95-630 as a corporation within the National Credit Union Administration ("NCUA") to provide credit unions with a reliable source of funds to meet their liquidity needs. These proposed regulations provide credit unions with information on the policies and requirements regarding membership and lending under which the Facility will operate.

DATES: Comments must be received on or before June 18, 1979.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456

FOR FURTHER INFORMATION CONTACT: Michael Fischer, Chief Accountant, Office of Examination and Insurance (Membership); Layne L. Bumgardner, Chief, Credit Union Operations, Office of Examination and Insurance (Lending); or Mark S. Medvin, Attorney-Advisor, Office of General Counsel, National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456. Telephone: (202)254-8760 (Mr. Fischer and Mr. Bumgardner) or (202)632-4870 (Mr. Medvin).

SUPPLEMENTARY INFORMATION

1. **Background**

The National Credit Union Administration Central Liquidity Facility ("Facility") was established as a corporation within the National Credit Union Administration ("NCUA") by the National Credit Union Administration Central Liquidity Facility Act ("Act"), Title XVIII of Public Law 95-630. It will be managed by the 3-person NCUA Board and will have as its purpose the improvement of general financial stability by meeting the liquidity needs of credit unions.

Banks and savings and loan associations have long had access to loans from the Federal Reserve System "discount window" and the Federal Home Loan Banks, respectively, to meet their liquidity needs, but there has been no similar Government-sponsored source of funds available to credit unions. The Central Liquidity Facility was established by Congress to fill this void. The Facility is presently in its organizational phase and will begin operation on October 1, 1979. It is anticipated that the Facility will open its books for stock subscriptions in mid to late summer, 1979. These proposed regulations address membership in and loans from the Facility.

2. **Regulatory Approach**

The general approach of these regulations is dictated, for the most part, by the Act. In the sections on membership, most of the provisions merely reflect the statutory membership provisions in 12 U.S.C. 1795c and 1795d. The lending sections are less reflective of *specific* statutory provisions (12 USC 1795e), but nevertheless were dictated, to a large degree, by the statutory provisions which:

(a) provide only for loans to meet liquidity needs of *natural person credit unions* (12 USC 1795a(1)), and

(b) provide that loans may be made only to members of the Facility (12 USC 1795e), without any provision for direct dealings between the Facility and credit unions served by Agents.

These provisions account for the structure of the lending process when Agents are involved (e.g., the documentation structure and the "two-tier" loan process of CLF loans to Agents and corresponding loans to natural person credit unions).

The regulations were drafted with the intent of keeping the paperwork burden to a minimum. Although the membership application will include a number of agreements and authorizations, these requirements are included so that the paper flow in the lending process can be kept to a minimum. All necessary authorizations will be required at the inception and there will be no need for the signing of a note and security agreement each time an advance is made. Any changes to the master agreements will be accomplished by amending Section 725.21 and giving notice of the amendments (Section 725.22). This avoids the need to sign new documents when changes are made. After the agreements and authorizations are filed, it is anticipated that, under normal circumstances, the only paper flowing in connection with loans will be an application for the loan and a confirmation form to be sent upon disbursal of the funds. The application will require only enough information to insure that the loan is for a liquidity need and to judge creditworthiness as required by the statute (12 USC 1795e(a)(2)).

A draft regulatory analysis has been prepared and is available for comment upon request.

MEMBERSHIP

3. Types of Membership

Membership in the Facility is available to both Federal and State chartered credit unions. Two types of membership in the Facility are provided for in the Act and the proposed regulations: *Regular* membership and *Agent* membership. Regular membership is available only to the traditional type of credit unions which primarily serve natural persons (Section 725.3(a)). Agent membership, on the other hand, is open only to credit unions or groups of credit unions which primarily serve other credit unions (Section 725.3(b)). For purposes of distinguishing these two types of credit unions, the Facility proposes to use a "50 percent of activity test"—that is, a credit union with more than 50 percent of its activity (basically the sum of shares and loans) devoted to natural persons will be classified as a "natural person credit union" (Section 725.2(k)), while a credit union with more than 50 percent of its activity devoted to other credit unions will be considered to be a "central credit union" (Section 725.2(d)).

4. Access to Loans

The Central Liquidity Facility was established to provide a source of funds to meet the liquidity needs of *natural person credit unions* only, and this is reflected in the definition of "liquidity needs" (Section 725.2(g)) which tracks the statutory definition. The statutory scheme provides natural person credit unions which desire access to Facility loans a choice as to how to deal with the Facility. A natural person credit union can join the Facility directly as a Regular member, in which case the credit union will submit its loan applications directly to, receive its loans directly from, and, in general, communicate and carry on its dealings directly with the Facility.

In the alternative, a natural person credit union can gain access to Facility loans by joining a central credit union which is an Agent member of the Facility. In this case, the natural person credit union would not itself be a member of the Facility, but would have access to Facility loans "through" the Agent member. Credit unions choosing to gain access to Facility loans in this manner would deal only with the Agent member and not directly with the Facility. The fact that a credit union is a member of a central credit union which is an Agent does not prevent that credit union from choosing Regular membership and dealing directly with the Facility.

Regardless of the way in which a natural person credit union chooses to gain access to Facility loans, the terms of the loans to the credit union will be the same (Section 725.20(b)).

5. Regular Membership

"Regular" membership is, by statute, available only to natural person credit unions and this is reflected in Section 725.3(a). In order to become a Regular member of the Facility, a natural person credit union must submit an application, copies of its charter and bylaws (unless these are already on file with NCUA), and its most recent month-end financial and statistical report. The credit union must also subscribe to the capital stock of the Facility in an amount equal to one-half of 1 percent of its "paid-in and unimpaired capital and surplus," a term defined in Section 725.2(m) of the proposed regulations. It should be emphasized that only one-half of the required stock subscription—in other words, one-quarter of 1 percent of paid-in and unimpaired capital and surplus—must be paid to the Facility, while the other one-half of the stock subscription may be held by the member on call of the NCUA Board and invested in specified assets (Section 725.5(b)). Section 725.5(a)(2) provides that the amount of the stock subscription will be adjusted annually based on changes in the member's paid-in and unimpaired capital and surplus.

The Act does not provide for any discretion on the part of the NCUA Board in approving an application to become a Regular member of the Facility. Any natural person credit union that complies with the application and stock subscription requirements will be accepted as a Regular member of the Facility. Consequently, Section 725.3(a)(2) requires that an applicant for Regular membership forward the portion of its stock subscription which must be paid to the Facility with its application.

6. Agent Membership

"Agent" membership is, by statute, available only to "a credit union or group of credit unions primarily serving other credit unions," and this is reflected in Section 725.3(b). Thus, a single central credit union or a group of central credit unions can apply to become an Agent member of the Facility.

Section 725.3(b) of the proposed regulation sets out the steps which must be taken by a central credit union or group of central credit unions desiring Agent membership. As in the case of Regular members, a prospective Agent member must submit an application, copies of its charter and bylaws (unless already on file at NCUA), and its most recent month-end financial and statistical report. When a group of central credit unions applies for Agent membership, these documents and reports must be submitted by each central credit union in the group.

Agent members must also subscribe to capital stock of the Facility. The amount of the stock subscription is one-half of 1 percent of the paid-in and unimpaired capital and surplus of all the natural person credit unions which are members of the applicant central credit union or, in the case of a group of central credit unions, which are members of any central credit union in the group. In order to prevent double stock subscriptions, Agent members do not have to consider the paid-in and unimpaired capital and surplus of any of their members which choose to join the Facility as Regular members. Section 725.3(b)(2) provides for the Agent stock subscription.

As in the case of Regular members, only one-half of the stock subscription must be *paid* to the Facility, while the remainder will be on call of the NCUA Board and may be invested in specified assets (Sections 725.3(b)(2) and 725.5(b)). Agent applicants must receive approval from the NCUA Board before becoming an Agent member and, therefore, Section 725.3(b)(2) does not require Agent applicants to forward the amount representing one-half of their stock subscription until the NCUA Board approves them as Agent members. Prospective Agents should note that, from the Facility's viewpoint, it is the Agent which is responsible for paying the required portion of the stock subscription, although the Agent is not prohibited from passing the cost of the stock subscription through to its members.

Section 725.3(b)(6) requires that applicants for Agent membership receive approval of the NCUA Board in order to become an Agent. This requirement is imposed because Agent members will be operating essentially as an arm of the Facility and it is necessary that the Facility be assured that the management, operations, and financial position of its Agent members are sound. Criteria which will be considered by the NCUA Board in determining whether to approve an applicant to become an Agent member are specified in Section 725.4(a). In the case of a group of central credit unions, each central credit union in the group must meet these criteria.

In addition, to insure the continued integrity of Facility operations, Agents must agree to comply with all regulations and reporting requirements that may be imposed by the Facility on Agent members (Section 725.3(b)(4)), and to submit to unrestricted examination by the NCUA Board or its designee (Section 725.3 (b)(5)).

7. Capital Stock

The Central Liquidity Facility is a corporation and, as such, it will issue capital stock. Members of the Facility must subscribe to Facility capital stock in specified amounts (Sections 725.3(a)(2) and 725.3(b)(2)) and are actually shareholders/owners of the Facility. The stock is nonvoting, but is entitled to share in dividend distributions without preference. Dividends will be paid on the issued capital stock (that is, on the paid-up portion of the total stock subscription) at rates and times determined by the NCUA Board (Section 725.5(d)).

8. Termination of Membership

The proposed regulations provide for both voluntary and involuntary termination of membership. The provisions on voluntary withdrawal from membership (Section 725.6(a), (b), (d) provide for the redemption of stock at the purchase price after a waiting period of 24 months for large members (over 5 percent of subscribed Facility stock) and 6 months for other members.

Section 725.6(c) reflects the statutory provision for involuntary termination of membership in the Facility. The proposed regulations give a member the right to a hearing before having its membership terminated. Regulations to govern the conduct of such hearings are currently being drafted and will amend 12 CFR Part 747. A credit union whose membership is involuntarily terminated will not be permitted to rejoin the Facility until the NCUA Board is satisfied that the credit union will comply with all applicable laws and regulations.

LENDING

9. Liquidity Needs

The Central Liquidity Facility will make loans to meet "liquidity needs," as defined in Section 725.2(g). This definition tracks the definition in the statute and indicates the three types of credit which will be available from the Facility. These are:

(a) Short-term adjustment credit—for example, credit to meet a temporary shortage of funds due to a delay in receiving payroll deduction funds from a sponsor;

(b) Seasonal credit—for example, credit to meet a shortage of funds due to summer share withdrawals from a teachers' credit union; and

(c) Protracted adjustment credit—for example, a long term funds shortage due to the closing of a factory and the resulting unemployment of members.

The Facility is authorized only to make loans to meet liquidity needs and is specifically prohibited from making loans "to expand credit union portfolios" (12 USC 1795e(a)(1)).

The definition of liquidity needs includes only the liquidity needs of *natural person credit unions*. Although central credit unions are eligible for Agent membership in the Facility, their borrowings from the Facility must be based on documented liquidity needs of the natural person credit unions which they serve. This means that Facility advances cannot be used by Agents for their own purposes.

10. Applications for extensions of credit to Regular members.

Those natural person credit unions which choose to become Regular members will deal directly with the Facility. Regular members will submit their applications for credit to a Facility lending officer (Section 725.17(d)) either at the Washington office, a Regional office, or at some other designated location. The application will be reviewed and the creditworthiness of the applicant will be considered (Section 725.18(a)) as required by the statute. Section 725.17(d) provides that applications for advances will be approved or denied within five working days after they are received.

11. Applications for extensions of credit to Agent members.

Agent members will apply directly to the Facility for extensions of credit, but only to meet the documented liquidity needs of their member natural person credit unions. Thus, Section 725.17(b) requires that, prior to applying for a Facility advance, the Agent must have received an application from one or more of its member natural person credit unions for an advance(s) to meet liquidity needs.

Natural person credit unions which choose to gain access to Facility loans through an Agent will submit their applications for advances to meet liquidity needs to the Agent. The Facility will provide the Agents with guidelines, and the Agent will have the authority to review applications and approve or deny them without any involvement of the Facility. Any applications which fall outside the established guidelines will be referred to the Facility for final action.

Upon approval by an Agent of one or more applications from its members for advances to meet liquidity needs, the Agent will request funds from the Facility in the amount of the approved application(s). Section 725.17(b) requires the Agent to certify in the application that it has received applications from its members for funds to meet liquidity needs in the amount requested from the Facility and that it has considered the creditworthiness of the credit unions on whose applications the request is based. The Facility will then advance funds to the Agent which, in turn, will advance the funds to the natural person credit union(s) which requested them.

In general, applications for extensions of credit must be in writing, although other forms of application may be developed later. In any event, Section 725.17(c) permits verbal applications in the case of emergencies.

Agent members will be compensated for the services they perform for the Facility in a manner to be specified by the NCUA Board (Section 725.4(e)).

12. Creditworthiness

Prior to any advance of Facility funds, Section 725.18 requires the Facility or the Agent, as appropriate, to consider the creditworthiness of the natural person credit union to which the funds will be advanced. Sources of information pertaining to an applicant's creditworthiness include Federal and State supervisory and/or insurance agencies and lenders associated with the applicant. Section 725.18(c) lists some of the factors which will be considered in assessing creditworthiness, and Section 725.18(d) indicates that applicants that do not meet the creditworthiness standards will either be denied the advance or limited in its use.

13. Collateral for Advances

Advances of Facility funds by the Facility or an Agent will normally be secured by an interest in the general assets (notes receivable, chattel paper, securities, instruments, etc.) of the natural person credit union which receives the advance (Section 725.19). The Facility will not require a security interest in specific assets unless circumstances suggest the need. Section 725.19(c) provides that the Facility and Agents will have the right at any time to perfect any security interest held by them by filing or taking possession of the collateral, but in most cases the security interest will not be perfected and the collateral will remain in the possession of the borrowing credit union so as not to interfere with the normal operation of the credit union.

14. Repayment, Security and Credit Reporting Agreement

In order to eliminate the need to sign documents each time an advance is made, the Facility will require all its members, both Regular and Agent, to sign a repayment, security and credit reporting agreement governing all advances made by the Facility (Sections 725.21(a) and (b)). Additionally, the Facility will require its Agent members to enter into a repayment, security and credit reporting agreement with all the natural person credit unions which they serve (Section 725.21(c); the terms of this agreement will be essentially the same as those of the agreement between the Facility and its Regular members.)

The agreements will include a promise to repay all advances, a security agreement, and such other loan terms as can be known in advance (Section 725.21). Other more specific terms, such as the amount, maturity, and interest rate, will be disclosed in a confirmation form that will be sent out at the time each advance is made, and/or in Operating Circulars of the Facility (Section 725.20(a)). The agreements will also include a credit reporting agreement which will set reporting requirements for recipients of Facility funds to enable the Facility to obtain information bearing on the status of the advances and on any problem which may arise.

When the final regulations are published, the repayment, security, and credit reporting agreements will be incorporated into the regulation in Section 725.21. Section 725.22 and the agreements signed by the credit union will provide that any amendments made to an agreement in Section 725.21 will, after notice, constitute an amendment to the agreement signed by the credit union. This provides a means of updating all existing agreements without necessitating the signing of new agreements by all credit unions with access to Facility loans each time a change is made in the agreement terms.

15. Other Facility Advances

The provisions of Section 725.23 implement Section 1795f(16) of the Act. Advances to State insurance funds, etc., are not intended to provide a means of circumventing the membership requirements of the Facility to those credit unions which do not join the Facility as Regular members or gain access to loans through an Agent. A credit union which receives loans through a State insurance fund, etc. will receive them subject to stringent conditions.

The provisions of Subsection 725.24 provide for expanded Facility lending authority when in the national interest. The authority for lending under this section is based on the following remarks of Congressman St Germain on this aspect of Public Law 96 630:

"Additionally, the committee believes the Facility should be available to enhance the Federal Government's ability to improve economic well-being and expects the Facility to be operated in close consultation with the Federal Reserve Board and Department of Treasury. At present, recession avoidance depends on appropriate fiscal and monetary policies and credit extensions supportive of the mortgage market by the Federal Home Loan Bank System.

"To assure the Facility is able to contribute to national economic well-being by stimulating consumer lending when it is in the national interest, your committee expects the non-expansionary provision not to apply if a determination is made by the Federal Reserve Board, Department of the Treasury, and National Credit Union Administration, that the national economic interest would be served by stimulating consumer buying by expanding the loan base of credit unions through expansionary Facility lending. In this way, the availability of the Facility to enhance economic well-being would be preserved while at the same time assuring that this capability would be exercised only with the concurrence of the Department of Treasury and the Federal Reserve Board.

"Your committee expects the Administrator to promulgate regulations as necessary to give effect to the full range of lending activities that are appropriate for the Facility" (124 *Cong. Rec.* E5953 (11/9/78)).

16. Abbreviated comment period

It is the Administration's normal practice to provide a 60 day public comment period for proposed regulations. The comment period has been shortened in this instance, however, (to June 18, 1979) so that it will be possible to issue a final regulation and open the books of the Facility for stock subscriptions sufficiently in advance of the October 1, 1979, effective date.

Accordingly, it is proposed that new Part 725, as set forth below, be added to Chapter VII of Title 12 of the Code of Federal Regulations.

Lawrence Connell
LAWRENCE CONNELL
Administrator

AUTHORITY: Sections 301-307 of the Federal Credit Union Act, 92 Stat. 3719-3722 (12 U.S.C. 1795-1795f).

New Part 725, as follows, is added to Chapter VII of Title 12 of the Code of Federal Regulations:

PART 725: NATIONAL CREDIT UNION ADMINISTRATION CENTRAL LIQUIDITY FACILITY

§ 725.1 Scope

(a) This Part contains the regulations implementing the National Credit Union Administration Central Liquidity Facility Act, Subchapter III of the Federal Credit Union Act. The National Credit Union Administration Central Liquidity Facility is a mixed-ownership Government corporation within the National Credit Union Administration. It is managed by the National Credit Union Administration Board and is owned by its member credit unions. The purpose of the Facility is to improve the general financial stability of credit unions by meeting their liquidity needs and thereby encouraging savings, supporting consumer and mortgage lending and providing basic financial resources to all segments of the economy.

(b) Subpart A contains the regulations governing membership in the Facility, and Subpart B contains the regulations governing lending by the Facility.

(c) The regulations contained in this Part are promulgated pursuant to Sections 301-307 of the Federal Credit Union Act (12 U.S.C. 1795-1795f).

§ 725.2 Definitions

As used in this Part:

(a) "Agent" means an Agent member of the Facility.

(b) "Agent group" means an Agent member of the Facility consisting of a group of central credit unions.

(c) "Chief officer" means the officer who has primary responsibility for the operation of a credit union, such as the President or the Chairman of the Board of Directors.

(d) "Central credit union" means a Federal or State chartered credit union primarily serving other credit unions. A credit union is primarily serving other credit unions when the total dollar amount of the shares and deposits that it has received from other credit unions plus loans to other credit unions exceeds 50 percent of the total dollar amount of all shares and deposits plus loans to members during the qualifying period, as defined in subsection (n) of this section.

(e) "Facility" or "Central Liquidity Facility" means the National Credit Union Administration Central Liquidity Facility.

(f) "Facility lending officer" means any employee of the Facility or the National Credit Union Administration who has been designated by the NCUA Board as a Facility lending officer.

(g) "Liquidity needs" means the needs of credit unions primarily serving natural persons for:

(1) short-term adjustment credit available to assist in meeting temporary requirements for funds or to cushion more persistent outflows of funds pending an orderly adjustment of credit union assets and liabilities;

(2) seasonal credit available for longer periods to assist in meeting seasonal needs for funds arising from a combination of expected patterns of movement in share and deposit accounts and loans and

(3) protracted adjustment credit available in the event of unusual or emergency circumstances of a longer term nature resulting from national, regional or local difficulties.

(h) "Management policies" means policies of a credit union with respect to membership, shares, deposits, dividends, interest rates, lending, investing, borrowing, safeguarding of assets, hiring, training and supervision of employees, and general operating and control practices and procedures.

(i) "Member" means a Regular or Agent member of the Facility, unless the context indicates otherwise.

(j) "Member natural person credit union," when used with reference to Agents, means a member of an Agent or of any central credit union in an Agent group. Member natural person credit unions are not members of the Facility unless they are also Regular members of the Facility.

(k) "Natural person credit union" means a Federal or State chartered credit union primarily serving natural persons. A credit union is primarily serving natural persons if it is not a central credit union.

(l) "NCUA Board" or "Board" means the National Credit Union Administration Board.

(m) "Paid-in and unimpaired capital and surplus" means the balance of the paid-in share accounts and deposits as of a given date, less any loss that may have been incurred for which there is no reserve or which has not been charged against undivided earnings, plus the credit balance (or less the debit balance) of the undivided earnings account as of a given date, after all losses have been provided for and net earnings or net losses have been added thereto or deducted therefrom. Statutory reserves or special reserves required by regulation or special agreement between the credit union and its regulatory authority or between the credit union and its member account insurer shall not be considered as part of surplus.

(n) "Qualifying Period" means:

(1) for initial qualification, any 7 months out of the 12 months immediately preceding the month in which application is made to become a member of the Facility; and

(2) for subsequent periodic qualifications, any 7 months out of the previous calendar year.

SUBPART A MEMBERSHIP

§ 725.3 Applications for Membership

(a) A natural person credit union may become a Regular member of the Facility by:

(1) making application on a form approved by the Facility which shall be signed by the chief officer and the secretary of the credit union;

(2) subscribing to capital stock of the Facility in an amount equal to one-half of 1 percent of the credit union's paid-in and unimpaired capital and surplus, as determined in accordance with subsection 725.5(a) of this Part, and forwarding with its completed application funds equal to one-half of this stock subscription; and

(3) furnishing the following reports and documents with the completed membership application:

(i) a copy of the credit union's financial and statistical report for the most recent month-end; and

(ii) copies of the credit union's charter and bylaws, unless such credit union is federally chartered.

(b) A central credit union or a group of central credit unions may become an Agent member of the Facility by (in the case of a group of central credit unions, each central credit union in the group must do each of the following except for paragraph (2), which shall be done by the group):

(1) making application on a form approved by the Facility which shall be signed by the chief officer and the secretary of the central credit union;

(2) subscribing to the capital stock of the Facility in an amount equal to one-half of 1 percent of the paid-in and unimpaired capital and surplus (as determined in accordance with subsection 725.5(a) of this Part) of all the central credit union's or central credit union group's member natural person credit unions which are not Regular members of the Facility. Upon approval of the application, the Agent shall forward funds equal to one-half of this initial stock subscription to the Facility.

(3) furnishing the following reports and documents with the completed membership application:

(i) a copy of the central credit union's financial and statistical report for the most recent month-end; and

(ii) copies of the central credit union's charter and bylaws, unless such credit union is federally chartered;

(4) agreeing to submit to the supervision of the NCUA Board and to comply with all regulations and reporting requirements which the NCUA Board shall prescribe for Agent members;

(5) agreeing to submit to periodic unrestricted examinations by the NCUA Board or its designee; and

(6) obtaining the approval of the NCUA Board which shall be in writing and shall specify the services that shall be performed for the Facility.

(c) All applications, agreements, reports, and documentation required for becoming a member of the Facility shall be filed with the National Credit Union Administration Central Liquidity Facility, 2025 M St., N.W., Washington, D.C. 20456.

(d) A credit union or credit union group that becomes a member of the Facility, or a credit union that becomes a member of an Agent of the Facility, later than six months after the Facility opens its books for capital stock subscriptions may not receive advances from the Facility (directly or through an Agent) without approval by the NCUA Board for a period of six months after becoming a member. This subsection (d) shall not apply to any credit union which becomes a member of the Facility within six months after such credit union is chartered or which has converted from Regular membership in the Facility to membership in an Agent, or vice versa, within a six month period.

§ 725.4 Agent Member Requirements

(a) The NCUA Board may approve a central credit union or group of central credit unions as an Agent member of the Facility, provided the NCUA Board is satisfied that such credit union or credit union group meets certain criteria, including but not limited to the following (in the case of a group of central credit unions, each central credit union in the group must meet these criteria):

(1) the management policies are in writing, approved by the central credit union's board of directors, and reviewed annually by such board;

(2) adequate internal controls are in place to assure accurate and timely reporting of transactions and the safeguarding of assets;

(3) the financial condition of the central credit union is sound with adequate reserves for losses;

(4) surety bond coverage provides protection for the central credit union's employees while performing the duties of an Agent of the Facility; and

(5) management has demonstrated its ability to use such techniques as cash flow analysis, budgeting and projections of sources and uses of funds to manage the affairs of the central credit union efficiently and in conformity with sound business practices.

(b) Upon approval as an Agent member of the Facility, the Agent member shall obtain from each of its member natural person credit unions which is not a Regular member of the Facility, and retain on file the following:

(1) a repayment, security, and credit reporting agreement as specified in subsection 725.21(c) of this Part; and

(2) an authorization to borrow and to enter into and be bound by the terms of the repayment, security, and credit reporting agreement.

The Agent shall also obtain and retain on file the documents specified in paragraphs (1) and (2), of this subsection from each natural person credit union which becomes a member of the Agent or of any central credit union in the Agent group subsequent to its becoming an Agent member of the Facility.

(c) Each Agent, or in the case of an Agent group, each central credit union in the group, must:

(1) maintain records related to Facility activity in conformity with requirements prescribed by the NCUA Board from time to time; and

(2) submit such reports as may be required by the Facility to determine financial soundness, quality and level of service, and conformity with established guidelines and procedures.

(d) Each Agent, or in the case of an Agent group each central credit union in the group, must have on an annual basis, a third party independent audit of its books and records and provide the Facility with copies of such audit reports. The auditor selected must be recognized by a state or territorial licensing authority as possessing the requisite knowledge and experience to perform audits.

(e) Agent members will be compensated for the services they perform for the Facility in a manner to be specified by the NCUA Board.

§ 725.5 Capital Stock

(a) The capital stock subscriptions provided for in Section 725.3 shall be:

(1) based on an arithmetic average of paid-in and unimpaired capital and surplus over the six months preceding application for membership, and

(2) adjusted at the close of each calendar year in accordance with an arithmetic average of paid-in and unimpaired capital and surplus over the twelve months in such calendar year. Payments for adjustments to the capital stock subecription must be received no later than March 31 of the following year.

(b) That part of a member's stock subecription which is not paid in may be held by the member on call of the NCUA Board and shall be held in demand deposits or invested in such other assets as the NCUA Board may from time to time prescribe.

(c) Any member may at any time purchase additional capital stock in the Facility.

(d) Dividends will be paid on capital stock at such times and rates as are determined by the NCUA Board. All issued (paid for) capital stock shall share in dividend distributions without preference.

§ 725.6 Termination of Membership

(a) A member of the Facility whose capital stock subscription constitutes less than 5 percent of subscribed Facility stock may withdraw from membership in the Facility six months after notifying the NCUA Board of its intention to do so.

(b) A member of the Facility whose capital stock subscription constitutes 5 percent or more of subscribed Facility stock may withdraw from membership in the Facility twenty-four months after notifying the NCUA Board of its intention to do so.

(c) The NCUA Board may terminate membership in the Facility if, after the opportunity for a hearing as provided for in Part 747 of this Chapter, the NCUA Board determines the member has failed to comply with any provision of the National Credit Union Administration Central Liquidity Facility Act or any regulation issued pursuant thereto. If membership is terminated under this subsection, the credit union will be required to obtain the approval of the NCUA Board before becoming a member of the Facility again. Such approval will be granted only if the NCUA Board is satisfied that the credit union will comply with such Act and regulations.

(d) In the event that membership is terminated under any provision of this section, the terminated member's stock shall be redeemed at the price originally paid for the stock. In such event, the Facility may retain any amount owed by the member to the Facility.

SECTIONS 725.7 THROUGH 725.16 RESERVED FOR FUTURE USE

SUBPART B LENDING

§ 725.17 Applications for Extensions of Credit

(a) A Regular member of the Facility may apply for an extension of credit to meet its liquidity needs by filing an application on a Facility-approved form, or by any other method approved by the Facility.

(b) An Agent member of the Facility may apply for an extension of credit to meet the liquidity needs of its member natural person credit union(s) by filing an application on a Facility-approved form, or by any other method approved by the Facility. The Agent's application shall certify that:

(1) the Agent has approved an application(s) from its member natural person credit union(s) which requests an extension(s) of credit for liquidity needs in the amount requested by the Agent; and

(2) the Agent has considered the creditworthiness of the member natural period credit union(s) which requested the extension(s) of credit.

(c) In emergency circumstances, the application for an extension of credit may be verbal, but must be confirmed within five working days by an application as required by subsection (a) or (b) of this section.

(d) Applications of Regular and Agent members shall be filed with a Facility lending officer. Each application for credit which is completed and properly filed will be approved or denied within five working days after the day of receipt.

§ 725.18 Creditworthiness

(a) Prior to approval of each application by a Regular member for an extension of credit, the Facility shall consider the creditworthiness of such member.

(b) Prior to approval of each application of a member natural person credit union for an extension of credit, an Agent shall consider the creditworthiness of such member natural person credit union.

(c) Specific characteristics of an uncreditworthy credit union include, but are not limited to, insolvency as defined by Section

700.1(k) of this Chapter, unsatisfactory practices in extending credit, lower than desirable reserve levels, high expense ratio, failure to repay previous Facility advances as agreed, excessive dependence on borrowed funds, inadequate cash management policies and planning, or any other relevant characteristics creating a less than satisfactory position. The mere presence of one or more of these characteristics will not necessarily mean that a credit union will be considered uncreditworthy.

(d) A natural person credit union (whether a Regular member of the Facility or a member natural person credit union of an Agent) which does not meet the creditworthiness standards established by the Facility may be limited in or denied the use of advances for its liquidity needs.

§725.19 Collateral Requirements

(a) Each advance of Facility funds to a natural person credit union whether by the Facility or an Agent, shall be secured by a security interest in the general assets of the credit union, whenever acquired, and/or, at the discretion of the Facility, in specific assets of the credit union.

(b) Each advance of Facility funds to an Agent member shall be secured by the obligations and security interests arising out of the Agent's advances of Facility funds to its member natural person credit unions, whenever arising.

(c) The Facility or the Agent, as applicable, shall have the right to perfect its security interest at any time by filing or taking possession of any or all of the assets covered by its security agreement(s).

§725.20 Terms and Conditions

(a) Advances of Facility funds shall be subject to such terms and conditions as shall be established from time to time by the NCUA Board. These terms and conditions are specified in Section 725.21 of this Part. Other terms and conditions, such as amount, maturity, and interest rate, will be specified in the Facility's Operating Circulars and/or in confirmations of credit provided in connection with each advance.

(b) The terms, including rates, on advances of Facility funds to natural person credit unions shall be the same regardless of whether the advance is received directly from the Facility or through an Agent member.

(c) Each member of the Facility (Regular or Agent) shall sign a repayment, security, and credit reporting agreement as specified in Section 725.21 of this Part.

(d) In the case of an Agent member which is an Agent group, each central credit union in the Agent group shall be jointly and severally liable on each repayment obligation of the Agent member to the Facility.

§725.21 Repayment, Security,
and Credit Reporting Agreements

(a) The repayment, security, and credit reporting agreement under which extensions of credit are made to Regular members of the Facility is as follows:

(A copy of the repayment, security, and credit reporting agreement will be included in the final regulations).

(b) The repayment, security, and credit reporting agreement under which extensions of credit are made to Agent members of the Facility is as follows:

(A copy of the repayment, security, and credit reporting agreement will be included in the final regulations).

(c) The repayment, security, and credit reporting agreement under which Agents shall make extensions of credit to their member natural person credit unions is as follows:

(A copy of the repayment, security, and credit reporting agreement will be included in the final regulations).

§725.22 Modification of Agreements

The terms of the repayment, security, and credit reporting agreements reflected in paragraphs (a), (b), and (c) of section 725.21 of this Part shall be subject to modification from time to time as the NCUA Board may determine. Any modification to such agreements shall be published in the Federal Register and shall become a term of the corresponding agreement which was signed by the credit union as of the effective date specified in the Federal Register. The new term shall apply to all advances disbursed by the Facility after the effective date.

§725.23 Advances to Insurance Organizations

(a) In accordance with policies established by the NCUA Board, the Facility may advance funds to a State credit union share or deposit insurance corporation, guaranty credit union, or guaranty association. Requests for such advances shall be supported by an application which sets forth and supports the need for the advance.

(b) Advances under subsection (a) shall be subject to the approval of the NCUA Board and shall be made subject to the following terms:

(1) the advance shall be fully secured,
(2) the maturity of the advance shall not exceed 12 months,
(3) the advance shall not be renewable at maturity, and
(4) the funds advanced shall not be re-lent at an interest rate exceeding that imposed by the Facility.

§725.24 Other Advances

(a) The NCUA Board may authorize extensions of credit to members of the Facility for purposes other than liquidity needs if the NCUA Board, the Board of Governors of the Federal Reserve System, and the Secretary of the Treasury concur in a determination that such extensions of credit are in the national economic interest.

(b) Extensions of credit approved under the conditions of paragraph (a) of this section shall be subject to such terms and conditions as shall be established by the NCUA Board.

****

Debt Collection Practices April 6, 1979

TITLE 12–BANKS AND BANKING

CHAPTER VII–NATIONAL CREDIT UNION ADMINISTRATION

PART 701–ORGANIZATIONS AND OPERATIONS OF FEDERAL CREDIT UNIONS

DEBT COLLECTION PRACTICES

AGENCY: National Credit Union Administration (NCUA)

ACTION: Advance Notice of Proposed Rulemaking

SUMMARY: The National Credit Union Administration is requesting comments on the questions of whether, and to what extent, it should regulate the debt collection practices of Federal credit unions. These questions have been raised as a result of two recent developments. First, consumer complaints about collection practices increased during 1978. Second, inquiries from Federal credit union officials suggest that it may be difficult for some Federal credit unions to determine what actions they may take to collect on loans, given the diverse requirements of State and Federal law. NCUA is considering proposing a regulation governing debt collection in order that the restrictions placed on Federal credit unions will be uniform and comprehensive.

DATES: Comments must be received on or before May 15, 1979.

ADDRESS: Send comments to Robert S. Monheit, Senior Attorney, Office of General Counsel, National Credit Union Administration, Room 4202, 2025 M Street, N.W., Washington, D.C. 20456.

FOR FURTHER INFORMATION CONTACT: Joseph F. Myers, Consumer Affairs Specialist, Division of Consumer Affairs, Office of Examination and Insurance, or John L. Culhane, Jr., Attorney-Advisor, Office of General Counsel, National Credit Union Administration, 2025 M Street, N.W., Washington, D.C. 20456. Telephone numbers. (202)254-8760 (Mr. Myers), (202)632-4870 (Mr. Culhane).

SUPPLEMENTARY INFORMATION

Rise in Complaints

NCUA keeps a record of the consumer complaints it receives. Complaints received are grouped together depending upon the nature of the complaints. The categories include Truth in Lending, The Equal Credit Opportunity Act, Miscellaneous Lending Problems, Insurance, Bylaws, Chartering, Services, and Advertising, among others. Collection complaints now rank as the major category of complaints in the miscellaneous lending problems category. In fact, collection complaints are now the third largest number of complaints received; a total of 59 complaints about collection practices were received during 1978.

Obviously, not all complaints have been substantiated. However, the recent increase in collection complaints has caused some concern since, presumably, the complaints that NCUA receives represent only a small percentage of the problems that actually exist.

Moreover, some serious allegations have been made. Complainants have alleged that misleading documents were used, that telephone calls to the debtor either at work or at home were made repeatedly, that messages were left with neighbors that indicated delinquency, and that the Federal credit union-creditors were trying to recover more than the debtors actually owed.

The Statutory Patchwork Quilt

At the same time that collection complaints are rising, the statutory regulation of the debt collection practices employed by Federal credit unions resembles a patchwork quilt. Federal credit union officials must be aware of and comply with state statutes, Federal statutes, and the regulations and policy statements of Federal agencies.

Based on a preliminary review, it appears that at least twelve states have debt collection statutes that might apply to Federal credit unions, either when they are collecting on their own loans or when they are acting as debt collectors for third parties, such as other credit unions. Those states are: California(1), Connecticut(2), Iowa(3), Maine(4), Maryland(5), Massachusetts(6), New Hampshire(7), New York(8), North Carolina(9), Oregon(10), Texas(11), and Wisconsin(12). In addition, the District of Columbia statute on debt collections(13) may also apply to Federal credit unions, although this is less clear because of the definitions given key terms in the statute.

Since March 20, 1978, Federal credit unions have also been subject to the Federal Fair Debt Collection Practices Act(14). Federal credit unions are covered by it if they regularly collect debts for third parties (as in the case of reciprocal collection agreements) or if they collect on their own loans under a different name(15). In addition, Federal credit unions that use collection agencies have been advised that NCUA will consider the employment of a collection agency which consistently violates the Fair Debt Collection Practices Act to be an unsafe and unsound practice, justifying an administrative cease and desist action against the Federal credit union employing that collection agency(16).

Finally the Federal Trade Commission (FTC) has issued its own Guides Against Debt Collection Deception(17). The Guides put creditors on notice that the practices listed are considered by the FTC to be unfair and deceptive trade practices. The acts listed are proscribed when a creditor is collecting its own loans and when it is collecting on loans for a third party(18).

Recently, NCUA has been receiving questions from Federal credit union officials which suggest that it may be difficult for some Federal credit union officials to ascertain the provisions of law (both substantive and procedural) which are applicable to them. Even when this can be done, it may still be difficult for the officials to determine what steps may be taken. The statutes and regulations vary in the extent to which they detail the acts that are prohibited.

What Is The Nature and Degree of the Problem?

Public comment is solicited on the following questions, so that NCUA can determine the nature and degree of any problems in this area.

(a) Do the different standards imposed by Federal and State law cause a problem for FCU officials who are making a good faith effort to comply with the law? NCUA would be particularly interested in responses from Federal credit unions who operate their own collection programs, especially Federal credit unions whose members live in different states and Federal credit unions with branch offices in different states.

(b) Does the present system adequately protect the interests of the consumer/member of a Federal credit union? In this connection, is the consumer generally aware of his or her rights under State law? under Federal law? Does the consumer know what agencies to contact and how to contact them in order to obtain enforcement of his/her rights? Is NCUA, by virtue of its role as regulator and examiner of Federal credit unions, better known to the consumer than other agencies? If so, is NCUA, by virtue of its periodic examination of Federal credit unions, better able to investigate and resolve consumer complaints?

(c) Are the complaints received by NCUA representative? If not, what other problems exist?

(d) Are any of these problems unique to Federal credit unions, due to their smaller size, close relationship to sponsor, etcetera?

What Should NCUA Do?

Public comment is invited on the question of what actions NCUA should take, assuming the existence of problems which warrant further action. The following alternatives are being considered:

(a) Continue the present practice of investigating and attempting to resolve all complaints, while referring to the FTC cases which suggest that unfair or deceptive practices have been employed. As part of its present practice of keeping Federal credit unions advised of applicable consumer laws, NCUA will shortly distribute to all Federal credit unions copies of the Federal Fair Debt Collection Practices Act and of the FTC's Guides Against Debt Collection Deception. In addition, articles will be published in the Administration's publications on both the Act and on the FTC's Guides, including an explanation of the remedies available where either or both is violated.

(b) Publish a statement of policy which would deem certain debt collection practices to be unsafe and unsound practices justifying an administrative cease and desist action. This would put all Federal credit unions on notice of the kinds of practices that would be challenged, while leaving NCUA with the burden of proving that the practices are unsafe and unsound.

(c) Publish a regulation. What is under consideration at this point is a regulation that would make certain substantive provisions of the Federal Fair Debt Collection Practices Act(19) applicable when a Federal credit union is collecting its own loans. This would have the effect of placing the same limitations on a Federal credit union collecting on its own loans as are presently imposed when it collects loans due a third party. NCUA requests that commenters who favor a regulation outline the provisions that should be in the regulation and address the question of whether such a regulation would result in a major increase in costs or expenses for all, or a significant portion of, those Federal credit unions with assets under $1 million.

This list is not intended to be exhaustive. Any other alternatives that are suggested will be considered by NCUA in deciding whether to proceed.

LAWRENCE CONNELL
Administrator

Footnotes

1. Cal. Civ. Code §§1788 *et seq.* (West Supp. 1978).
2. Conn. Gen. Stat. Ann. §§360243a *et. seq.* (West Supp. 1979).
3. Iowa Code Ann. §§537.7101 *et. seq.* (West Supp. 1978).
4. Me. Rev. Stat. tit. 9-A, §5.116 (1978).
5. Md. Com. Law §§14-201 *et. seq.* (1975).
6. Mass. Gen. Laws Ann. ch. 93, §49 (1972).
7. N.H. Rev. Stat. Ann. §§358-C: 1 *et seq.* (1975).
8. N.Y. Gen. Bus. Law §§600 *et seq.* (McKinney 1978).
9. N.C. Gen. Stat. §§75-50 *et seq.* (Supp. 1977).
10. Or. Rev. Stat. §§646.639, 646.641 (1977).
11. Tex. Rev. Civ. Stat. Ann. arts. 5069–11.01 *et seq.* (Vernon 1978).
12. Wis. Stat. Ann. §§427.101 *et seq.* (West 1974).
13. D.C. Code Encycl. §28-3814 (West Supp. 1978).
14. 15 U.S.C.A. §§1692 *et seq.* (Supp. 1978).
15. 15 U.S.C.A. §1692a(b) (Supp. 1978).
16. NCUA, Administrator's Letter, vol. 6, no. 1, at 8 (Feb. 1979).
17. 16 C.F.R. pt. 237 (1978).
18. 16 C.F.R. §237.0(a) (1978).
19. The following sections are being considered: §§1692b, 1692c, 1692d, 1692e, and 1692f.

NCUA Publications List

(As of 9/79)

Where prices are listed, the following publications may be ordered from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. Single copies of unpriced publications (marked*) may be obtained without charge from the National Credit Union Administration, Washington, D.C. 20456. Many of the manuals that are for sale by Superintendent of Documents may be purchased from your usual source of credit union supplies.

Title	NCUA Publication No. and Issue Date	GPO Stock No.	GPO Sales price[1]
GENERAL INFORMATION			
Credit Union Statistics (Issued Monthly)	5001		*
NCUA Digest (formerly titled Administrator's letter)	(Current)		*
Administrator's Annual Financial Report	8051 (1978)		*
Annual Report of the National Credit Union Administration	8000 (1977)		*
Annual Report of the State-Chartered Credit Unions	8003 (1977)		*
NCUA Recruitment Brochure	8004 (1978)		*
Federal Credit Unions (English)	8005 (1979)	054—000—00058—8	**
Federal Credit Unions (Spanish)	8005 (1976)		*
Annual Report of the Administrator	8010 (1976)		*
NCUA Records Preservation Program	8036 (1973)		*
Your Insured Funds[2]	8046 (1978)	054—000—00051—1	.60 or $7.25/100
Federal Credit Unions and Electronic Funds Transfer Systems	8501 (1976)	054—000—00041—3	.35
NCUSIF—Review of Financial Policies and Practices 1971-1976	8502 (1977)		*
1978 Interim Dividend Guidelines for Federal Credit Unions	8503 (1978)		*
Accounting Guidelines for Real Estate Lending	8504 (1978)		*
CLF — Questions and Answers	8701 (1979)		*
TECHNICAL			
Federal Credit Union Bylaws	8001 (1970)	054—000—00035—9	$1.30
Change 4 (Includes Changes 1-3)	(1977)	054—000—00050—2	$1.00
Change 5	(1978)	054—000—00053—7	.70 or $18.00/100
The Federal Credit Union Act	8002 (1979)	054—000—00059—6	$2.00
NCUA Rules and Regulations[3]	8006 (1972)	054—000—81001—6	$13.00
Organizing a Federal Credit Union	8007 (1972)		*
Data Processing Guidelines for Federal Credit Unions	8009 (1972)		*
Manual of Laws Affecting Federal Credit Unions[4]	8017 (1978)	054—000—81002—4	$22.00
Accounting Machine Handbook for Federal Credit Unions	8020 (1973)		*
Board of Directors Manual for Federal Credit Unions	8021 (1974)	054—000—00013—8	$1.15
Accounting Manual for Federal Credit Unions	8022 (1975)	054—000—00014—6	$3.15
Change 1	(1975)	054—000—00031—6	$1.60
Change 2	(1976)	054—000—00044—8	$1.40
Supervisory Committee Manual for Federal Credit Unions	8023 (1976)	054—000—00040—5	$1.85
Credit Manual for Federal Credit Unions	8024 (1972)	054—000—00003—1	.85
Credit Manual for Federal Credit Unions (Spanish Version)	8024 (1975)	054—000—00029—4	$1.25
Emergency Preparedness Guidelines for Federally Insured Credit Unions	8029 (1979)	054—000—00057—0	$1.20
Type-of-Membership Classification for Federally-Insured Credit Unions	8030 (1975)	054—000—00033—2	.70
Accounting for Sale of Food Stamps	8037 (1975)	054—000—00025—1	.85
Special Accounting and Operating Procedures for Federal Credit Unions Maintaining Offices Overseas	8039 (1975)		*
Voluntary Liquidation Procedure for Insured Federal Credit Unions	8040 (1972)		*
Determination of Continued Insurability (English)	8042 (1973)		*
Determination of Continued Insurability (Spanish)	8042 (1975)		*
Electronic Funds Transfer System—A Glossary of Terms	8047 (1975)	054—000—00038—3	.40
Manual of Laws Affecting Federally Insured State Credit Unions[5]	8048 (1978)	054—000—81003—2	$10.00
Liquidation and Payout Procedures	9700 (1975)	054—000—00027—8	$1.45
RESEARCH PUBLICATIONS			
Regular Reserves of Federal Credit Unions (269 pp.)	(1968)		*
Trends in Chartering and in Operating Credit Unions (186 pp.)	(1973)		*
Research Reports			
No. 1: New Automobiles as Loan Security	(1969)		*
No. 2: Credit Unions and Tight Money	(1969)		*
No. 3: Sharing the Benefits of Credit Union Membership: Some Guidelines	(1969)		*
No. 4: Loan Delinquency in Federal Credit Unions	(1971)		*
No. 5: The Changing Economy	(1971)		*
No. 6: Interest Charged on Loans by Credit Unions and other Lenders	(1973)		*
No. 7: Credit Unions and the Money "Crunch"	(1973)		*
No. 8: Credit Union Liquidity and Share Insurance: A New Dimension	(1974)	054—000—00012—0	.35
No. 9: Common Bond—Policy Analysis (1965-1974)	(1975)	054—000—00024—3	.35
No. 10: The Future Role of Voluntarism in Credit Unions	(1976)	054—000—00045—6	.35
NCUA Working Papers			
No. 1: Credit Union and EFTS	(1975)	054—000—00026—0	.35
No. 2: Credit Unions and the Lexicon of Intermediation	(1976)	054—000—00039—1	.35
No. 3: Credit Unions Roles in a Changing Environment	(1976)	054—000—00048—1	.35
NCUA Technical Papers			
No. 1: The Problems of Data Communication Standards in EFTS	(1976)		*

1/ All priced publications that are for sale by the U.S. Government Printing Office, Superintendent of Documents are subject to change without prior notice.

2/ Price indicated is for sale price by the U.S. Government Printing Office, Superintendent of Documents, Washington, D.C. 20402.

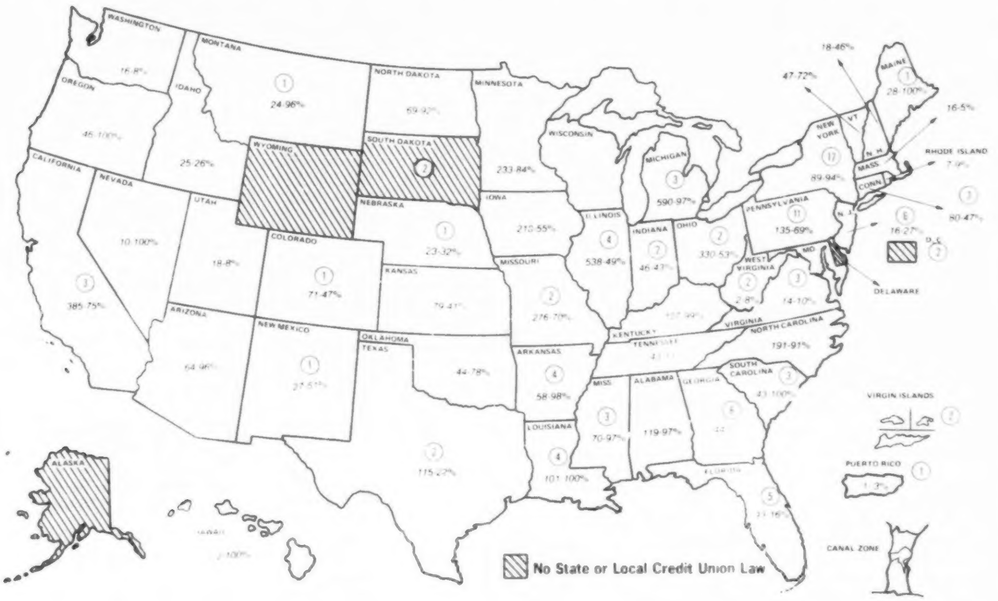
**Price unavailable at time of publishing this list.

3/ Manual is on subscription service, price includes basic manual plus changes as they are issued. When ordering, separate from balance of order and send to: the U.S. Government Printing Office, Superintendent of Documents Subscription Service Department, Washington, D.C. 20402. Price of each subscription for foreign mailing is $16.25.

4/ Manual is on subscription service, price includes basic manual plus changes as they are issued. When ordering, separate from balance of order and send to the U.S. Government Printing Office, Superintendent of Documents Subscription Service Department, Washington, D.C. 20402. Price of each subscription for foreign mailing is $27.50.

5/ Manual subscription procedure same as footnote 4/ with the exception of cost for foreign mailing which is $12.50.

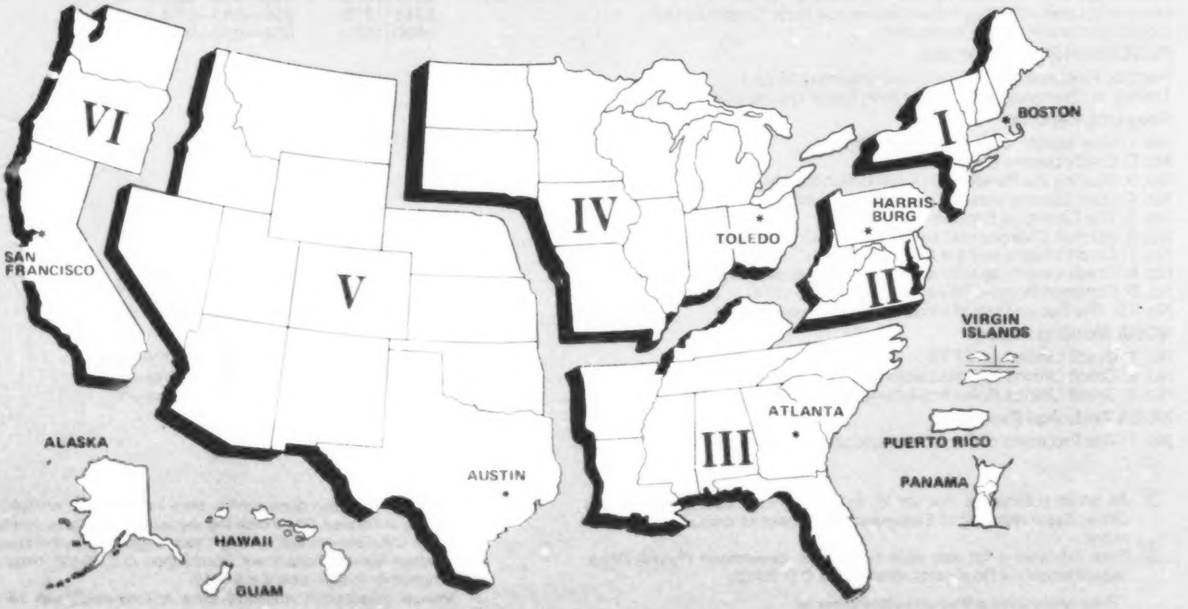
FEDERAL CHARTERS GRANTED IN 1979
STATE CREDIT UNIONS PARTICIPATING IN FEDERAL SHARE INSURANCE PROGRAM


WASHINGTON
16-8%
OREGON
46-100%
IDAHO
25-26%
MONTANA
1
24-96%
NORTH DAKOTA
69-92%
SOUTH DAKOTA
2
WYOMING
CALIFORNIA
3
385-75%
NEVADA
10-100%
UTAH
18-8%
COLORADO
1
71-47%
NEBRASKA
1
23-32%
KANSAS
79-41%
ARIZONA
64-96%
NEW MEXICO
1
27-51%
OKLAHOMA
44-78%
TEXAS
2
115-22%
ALASKA
HAWAII
2-100%
MINNESOTA
233-84%
IOWA
210-55%
MISSOURI
2
276-70%
ARKANSAS
4
58-98%
LOUISIANA
4
101-100%
WISCONSIN
MICHIGAN
3
590-97%
ILLINOIS
4
538-49%
INDIANA
2
46-47%
OHIO
2
330-53%
KENTUCKY
157-99%
TENNESSEE
MISS
3
70-97%
ALABAMA
119-97%
GEORGIA
6
FLORIDA
5
33-16%
SOUTH CAROLINA
3
43-100%
NORTH CAROLINA
191-91%
VIRGINIA
3
14-10%
WEST VIRGINIA
2
2-8%
MD
DELAWARE
D.C.
2
PENNSYLVANIA
11
135-69%
N.J.
6
16-27%
NEW YORK
17
89-94%
VT
N.H.
MASS.
CONN
3
80-47%
RHODE ISLAND
7-9%
MAINE
1
28-100%
18-46%
47-72%
16-5%
VIRGIN ISLANDS
2
PUERTO RICO
1
1-3%
CANAL ZONE
▨ No State or Local Credit Union Law

○: New Federal Credit Union Charters Issued 1/1/79-4/30/79

No. & %: Total Number And Percent of Federally Insured State Credit Unions Through 3/31/79

NCUA REVISED REGIONAL OFFICE BOUNDARIES
(Effective October 1, 1979)


VI
SAN FRANCISCO
V
AUSTIN
IV
TOLEDO
I
BOSTON
HARRISBURG
II
III
ATLANTA
VIRGIN ISLANDS
PUERTO RICO
PANAMA
ALASKA
HAWAII
GUAM

NOTE: Federal Credit Unions in Puerto Rico and the Virgin Islands are included in Region I; Canal Zone in Region III; and Alaska and Guam in Region VI.

best copy available

NATIONAL CREDIT UNION ADMINISTRATION
WASHINGTON, D.C. 20456
OFFICIAL BUSINESS

FIRST CLASS MAIL
POSTAGE & FEES PAID
NCUA
PERMIT No. G-88